

PROCUREMENT POLICY  
Effective, March 1, 2017



**Approved:**

**Anthony Snipes, City Manager**

**February 22, 2017**

A handwritten signature in black ink, which appears to read "Anthony Snipes", is written over a solid horizontal line.



## Table of Contents

---

CHAPTER 1 ~ GENERAL PROVISIONS.....	4
§1-101 Purpose .....	4
§1-102 Public Procurement.....	5
§1-103 Mission.....	5
§1-104 Function and Responsibilities.....	5
§1-105 Principles .....	7
§1-106 Code of Ethics .....	7
§1-107 Conflict of Interest.....	8
§1-108 Procurement Records and Information .....	9
CHAPTER 2 ~ ADMINISTRATIVE MATTERS .....	10
§2-101 Applicability .....	10
§2-102 Signatory Authorities and Approval Thresholds.....	10
§2-103 Department Representative(s).....	12
§2-104 Processes .....	13
§2-105 Non Competitive Bid Items.....	17
§2-106 Change Orders.....	20
§2-107 Historically Underutilized Business (HUB).....	23
§2-108 Small Business Program .....	23
§2-109 Certificate of Interested Parties (Form 1295) Effective January 1, 2016.....	24
§2-110 Tax Exempt Status .....	24
§2-111 Confidential Information.....	24
CHAPTER 3 ~ SOURCE SELECTION .....	25
§3-101 Methods of Source Selection.....	25
§3-102 Competitive Sealed Bidding (Request for Bid) .....	26
§3-103 Competitive Sealed Proposals or Request for Proposal.....	30
§3-104 Construction Related Procurements.....	31
§3-105 Purchases Less than \$ 50,000.....	33
§3-106 Cooperative Procurements .....	33
§3-107 Separate, Sequential or Component Purchases .....	34
§3-108 Finality of Determinations .....	35
§3-109 Bid Protests .....	35
§3-110 Reporting of Anticompetitive Practices.....	36

§3-111 Retention of Procurement Records.....	36
§3-112 Federal Excluded Party Verification-All Funds .....	36
§3-113 Non-Compliant Purchases .....	36
§3-114 IT (Information Technology) Related Purchases .....	37
CHAPTER 4 ~ SPECIFICATIONS AND AMENDMENTS .....	38
§4-101 Specification Preparation.....	38
§4-102 Specifications Prepared by Other Than City Personnel .....	38
§4-103 Specification Amendments.....	38
§4-104 Pre-Bid Conferences and Site Visits .....	38
CHAPTER 5 ~ LEGAL REQUIREMENTS.....	40
§5-101 Insurance .....	40
§5-102 Prompt Payment Act.....	42
§5-103 Public Works Bonding Requirements .....	42
CHAPTER 6 ~ CONTRACT ADMINISTRATION, MODIFICATION AND TERMINATION.....	43
§6-101 Multi-Year Contracts .....	43
§6-102 Definition .....	43
Professional Services.....	44
§6-103 Competitive Sealed Qualifications .....	44
§6-104. Initiation of Contract .....	46
§6-105 Monitoring and Contractor Report Cards.....	46
§6-106 Renewals.....	47
§6-106 Change Orders.....	48
§6-107 Terminations .....	48
§6-108 Maintenance Agreements.....	48
§6-109 Lease Agreements .....	49
§6-110 Contract Review and Approval.....	49
CHAPTER 7 ~ SURPLUS MATERIALS AND EQUIPMENT .....	50
§7-101 City-Owned Materials and Equipment .....	50
GLOSSARY OF TERMS.....	52
SOLE/SINGLE SOURCE FORM.....	57
CERTIFICATION OF EMERGENCY PURCHASE FORM .....	58

## EXHIBITS

- A – Requisition Coversheet**
- B – Professional/Consulting Services Agreement**
- C – Vendor Agreement**
- D – Surplus Property Disposition Form**
- E – Non-Compliant Purchase Authorization Form**

## **CHAPTER 1 ~ GENERAL PROVISIONS**

---

### **§1-101 Purpose**

The City of Missouri City, Texas (City) Purchasing Division presents this manual to promote understanding by employees, vendors, contractors, and the public regarding the procurement of goods and/or services on behalf of the City.

The public must have confidence that public funds are spent prudently, on its behalf, and not for the personal benefit of City employees, officials, or their friends. The deliberate elements of actual or perceived conflict of interest, fraud and abuse can be destructive to the public trust. The policies and procedures incorporated within should:

- Provide a combined centralized and decentralized procurement program encompassing nationally approved principles and practices.
- Be reviewed, thoughtfully and regularly, to ensure the utility of procurement statutes and for periodic modifications for improvements that will enhance the efficiency and effectiveness of the procurement function.
- Promote and encourage ethical management and efficiency in City procurement procedures.

The purpose of this manual is to establish policies and procedures that will be used to:

- Simplify, clarify and modernize the City of Missouri City's procurement practices.
- Ensure the application of consistent and sound business practices in City purchasing and demonstrate our ongoing commitment to increasing communication among the departments.
- Bolster public confidence in public procurement procedures.
- Ensure the fair and equitable treatment of all persons dealing with the City procurement system.
- Foster effective broad-based competition within the free enterprise system.
- Provide increased economy in City procurement activities.
- Maximize the procurement value of City funds.
- Safeguard the high quality and integrity of the procurement system.
- Ensure that expenditure of public funds (including federal and state funds) complies with the terms and conditions of the funding source. If federal or state requirements conflict with provisions of this manual, nothing in the manual shall prevent the City from complying with the terms and conditions of the federal or state requirements.

Because the City buys diverse services and commodities to support its operation, it uses a combined centralized and decentralized procurement system. These policies set forth the following elements of a centralized/decentralized procurement function:

**Centralized.** These policies are to be followed by anyone who has the authority to act as an agent of the City in the procurement of all goods and services regardless of the dollar value. This authority lies within the Purchasing Division.

**Decentralized.** These policies are for the benefit of City personnel responsible for the procurement of goods and services for their departments.

## **§1-102 Public Procurement**

---

Procurement in the public sector is the process through which a government acquires goods and services. The terms “procurement” and “purchasing” are often used interchangeably. However, “purchasing” is only one of three stages of the procurement cycle.

1. *Planning and scheduling.* Procurement activities to meet program and budgetary objectives;
2. *Source selection.* (Purchasing) The process through which solicitations are issued, advertisements run, vendors selected, and goods and services received and;
3. *Contract administration.* Enforcement of the terms of the purchase agreement or contract and payment of invoices.

One of the most important standards of public procurement to remember is that each procurement action results in a legal contract between the City and the supplier. Each procurement action is a legal action. Public procurement activities are governed by common law, the Uniform Commercial Code (UCC), government procurement laws, ordinances and case law.

## **§1-103 Mission**

---

The Purchasing Division’s mission is to assist all City departments in the procurement of materials, supplies, equipment and services at the lowest possible cost, consistent with the quality and delivery required. All purchases by an employee, acting as an agent of the City, must be made in an open, fair and ethical manner to promote competition and best serve the taxpayers.

## **§1-104 Function and Responsibilities**

---

### **A. The Purchasing Division**

---

Under the general supervision of the Director of Financial Services, some of the functions and responsibilities of the Purchasing Division are as follows:

- 1) To observe and enforce the procedures outlined and adopted in the City of Missouri City Procurement Manual, City Ordinances, City Charter and State Law.
- 2) To operate the Purchasing Division in such a manner that vendors:
  - a. Will be aware of the fairness of all awards
  - b. Will be encouraged to continually furnish competitive bids so the City shall secure the best goods and services of the right quality and the best price.

- 3) To encourage competitive bidding at all times while maintaining good vendor relations. To solicit new vendors, specifically vendors, and do all things possible to encourage maximum participation.
- 4) To assist department directors in their efforts to purchase all supplies, materials and contractual services for the City.
- 5) To explore the possibilities of consolidating purchases of like, when possible, or common items to obtain the maximum economic benefits.
- 6) To prepare specifications, where practical, governing purchases of various items.
  - a. However, when it is proposed to purchase articles of technical or scientific nature for special use, the head of the requisitioning department shall submit recommended specifications.
- 7) To provide for the inspection and appropriate testing for goods delivered, although this responsibility may be delegated to the head of the using department, and to insure that inferior or unsatisfactory articles are rejected or returned.
- 8) To monitor contract timelines in order to assure timely bids and contract renewals.
- 9) To maintain a record of all bids, quotations and purchases.
- 10) To investigate violations of the purchasing policies and regulations.
- 11) To arrange for the disposal of surplus/scrap materials and equipment, including obsolete stock and scrap, as outlined by this manual.
- 12) To manage the City's relations with vendors, in particular, those who have disputes and/or are disbarred.

## **B. Using Departments**

The Purchasing Division shall continuously familiarize itself with the particular requirements of the other City departments and be receptive to suggestions or comments. The using departments can assist the Purchasing Division in complying with state and local laws and regulations by:

- Planning their work so that "Rush Orders" and "Emergencies" will be held to a minimum. Requests for procuring goods and services should be forwarded to the Purchasing Division far enough in advance to allow them to obtain vendors and in turn, allow the vendor sufficient time to complete the request for quotation.
- Monitoring staff purchases and requiring strict compliance with policies (i.e. no splitting of invoices to avoid the City's purchasing limits).
- Preparing complete and reasonable specifications for materials that require engineering or technical background. Specifications should be written in a way that encourages maximum vendor participation to ensure the City receives the best goods and services at the most advantageous cost or best value as defined in §2155.074 of the Texas Local Government Code.
- Assisting the Purchasing Division in developing and maintaining vendor lists by providing contact information as new vendors are identified.
- Preparing Council agenda items timely, to allow for review by the Purchasing Division, Finance Department, City Attorney and the City Manager.
- Monitoring contract timelines in order to assure timely bids and contract renewal.

**No City employee shall purchase supplies, materials or equipment of any kind for personal use.**



## C. Vendors

---

The vendor community can assist the Purchasing Division in complying with state laws and regulations by:

- Following ethical business practices and procedures by working within the purchasing process, treating other vendors fairly and respectfully, not colluding or offering kickbacks.
- Providing goods and/or services as specified and on time.
- Completing and returning required forms, bid documents, affidavits and conflict of interest questionnaires.

## §1-105 Principles

---

The Purchasing Division personnel shall comply with these principles:

- In all transactions, to consider first what is in the best interests of the City. To believe and carry out the established policies of the City.
- To be receptive to competent counsel from City Attorney.
- To be guided by counsel without impairing the dignity and responsibility of the office.
- To establish practical procedures for the conduct of the office.
- To subscribe to and work for honesty and truth in buying and selling and to denounce all forms and manifestations of commercial bribery.
- To accord a prompt and courteous reception to all who call on a legitimate business mission.
- To counsel and assist fellow employees in the performance of their duties.
- To cooperate with and participate in organizations and with individuals engaged in activities designed to enhance the development and standards of procurement.

## §1-106 Code of Ethics

---

*The Purchasing Division adopts and is in compliance with the Code of Ethics of the National Institute of Governmental Purchasers (NIGP). This Code of Ethics may be found at <http://www.nigp.org/home/about-nigp/who-we-are/code-of-ethics>*

---

**PERCEPTION IS EVERYTHING.** Even if a procurement decision is sound, the method of determination should be documented and will be open to public inspection. If a decision is perceived to be less than fair to all competitors, then the perception becomes the reality to the unsuccessful bidders. And, if the opinion is that the City has “favorite companies we always do business with,” our job is to set the record straight with all who may have this complaint. It is important that awards are made based on competition and/or the best value for the City, that the reason(s) for those awards is documented and defensible, and that a decision is based on fact and made in the best interest of the City.

## **§1-107 Conflict of Interest**

---

Effective June 29, 2007, H.B. No. 1491 of the 80<sup>th</sup> Texas Legislature requires a vendor that wishes to conduct business or be considered for business with the City of Missouri City, Texas to file a Conflict of Interest Questionnaire (Exhibit B). These forms, once completed by the vendor and submitted with vendor's bid response, will be maintained by the Purchasing Division and stored in Questys.

Pursuant to the requirements of §176.002(a) and §176.003 of the Texas Local Government Code, vendors or respondents who meet the following criteria must fill out a Conflict of Interest Questionnaire no later than the seventh (7<sup>th</sup>) day after the person begins contract discussions or negotiations with the City or submit an application, response to a request for proposals or bids, correspondence, or another writing related to a potential agreement with the City:

A vendor or respondent that –

- (1) Contracts or seeks to contract for the sale or purchase of property, goods, or services with a local governmental entity; or
- (2) is an agent of a person described above in the person's business with a local governmental entity? Any person who meets the criteria, as for enforcement to ensure the veracity of the vendors, the statute makes it a Class C Misdemeanor to violate the vendor disclosure provisions.

The forms required to comply with the above Government Code are available on the Ethics Commission website at: <http://www.ethics.state.tx.us/forms/CIQ.pdf>.

The City shall not contract for goods or services for any department if the contract is with an employee of that department.

Furthermore, contracting for goods or services with an employee, administrative officer, member of the employee's immediate family, or a company which is owned in whole or part by an employee, administrative officer, or a member of his/her immediate family, or a company in which an employee, administrative officer, or a member of his/her immediate family has a financial interest (as defined below), is permitted providing strict adherence to the following requirements:

- (1) The Purchasing Division shall be notified immediately in writing, of such an ownership interest or financial interest. That documentation will be stored in the vendor maintenance file in Questys.
- (2) No contract for goods or services shall be written to an employee owned business if it could be construed or there is an appearance that the City employee owned business has an advantage over other competitors.
- (3) No solicitation of business by the employee shall take place during his/her normal duty

hours.

- (4) All purchases or contracts involving employee owned businesses, regardless of estimated cost, shall be executed by the Purchasing Division.

For the purpose of this provision,

- Owned in part means having an ownership interest of more than 10% of the business.
- Financial interest means any interest in the business by means of a loan or other evidence of indebtedness, in excess of 10% of said business' outstanding indebtedness.
- Immediate family is defined as a spouse, parent, child, or sibling.

#### **§1-108 Procurement Records and Information**

*Public access to procurement information.* Procurement information shall be a public record and shall be available to the public.

*Copies of procurement information.* Copies of procurement information, subject to public access, are available to the public upon written request to the Office of the City Secretary. A charge of \$.10 per page may be collected from the requesting party and shall be paid to the City of Missouri City, TX prior to obtaining the copies.

## CHAPTER 2 ~ ADMINISTRATIVE MATTERS

---

### §2-101 Applicability

---

Policies and procedures set forth in this manual shall apply to all purchases entered into by the City. Contracts funded, in whole or in part, with federal assistance monies shall comply with the appropriate federal, state and local laws and the rules and regulations promulgated pursuant to such law.

Policies and procedures set forth in this manual, in addition to the standard state and local requirements, shall apply to all employees acting as agents of the City for the purpose of procurement of goods and/or services. Any employee who expends City funds: (a) for personal use; (b) without the written approval of his/her manager; (c) without being authorized to act as an agent of the City; or (d) without following the procedures as set forth by the City will be subject to disciplinary action(s), up to and including termination.

### §2-102 Signatory Authorities and Approval Thresholds

---

Generally, the City is required to follow the bidding or proposal procedures outlined in Local Government Code Chapter 252 when it plans to make an expenditure of more than \$50,000. Only the City Council has the authority, or may designate the authority, to commit funds. The City Manager has approved and delegates the following authority:

#### A. Goods and Services

- 0 - \$25,000 Assistant City Manager
- \$25,001 - \$49,999.99 City Manager
- \$50,000 + City Council Authorization > City Manager

#### B. Construction Contract Change Orders

- City Manager or Asst. City Manager may approve Construction Contract Change Orders up to \$50,000 in the aggregate. Construction Contract Change Orders greater than \$50,000 + require City Council approval.

Authority to sign contracts or agreements on behalf of the City is granted and delegated as shown above. This applies to all types of documents including, but not limited to: purchase requisitions, contracts for services, leases, rental agreements, service/maintenance agreements, facility use agreements, etc.

Employees granted authority to make and approve purchases, will be held accountable for ensuring that each purchase is made in accordance with this policy and all applicable federal, state, and local law, procedures, directions, and good business practice.

**City personnel should be aware that personal financial liability or disciplinary action, up to and including termination of employment, may result if an individual makes purchases without delegated authority as defined.**

**Special Note: This delegation of authority to obligate is not assignable to others without the express and written consent of the City Manager.**

**The following table clearly articulates the Munis Purchasing Workflow for requisition processing.**

**Munis Requisition Workflow**

Steps	Dollar Range	Approval Authority	Alternate Approver	Notification
1	\$0-1,000	Department Representative	Division Manager	Manager; A/D and Director
2	\$1,001-3,000	Division Manager	Assistant Director (A/D)	A/D and Director
3	\$3,001-7,000	Assistant Director (A/D)	Director	Director
4	Greater than \$7,001	Director	Alternate Assistant City Manager	Assistant City Manager (ACM)
4b	\$15,001-\$25,000	Assistant City Manager	Alternate Assistant City Manager	City Manager
4c	Greater than \$25,001	City Manager	Assistant City Manager	

**§2-103 Department Representative(s)**

Department heads of each using department shall appoint a responsible and qualified employee(s) who shall assume the duties of liaison between their department and the Purchasing Division. The employee shall be responsible for the proper initiation of all purchasing matters concerning their departments, for the supervision of all receiving procedures and handling inventory for their department. Mandatory training for department representatives will be held on a bi-annual basis.

All department heads should make provisions to appoint an alternate in order to ensure that this Program is maintained during the representative's absence. The Purchasing Division shall be advised by each department head of the name of the individual(s) who is designated as its representative.

Authority has been granted for each designated department buyer to obtain at least three (3) written quotes up to \$49,999.99 for items that have been approved in the City budget. The Purchasing Division will not be restricted to the quotes provided by the department and maintains the right and authority to supplement the quotes from other providers, if necessary. After a formal solicitation process or approved justification, any request over \$50,000 must be presented to City Council for approval prior to transacting a purchase.

Once written quotes have been received, or a contract issued (if required), a purchase requisition must be entered into the system. A purchase order may be processed by the Purchasing Division

authorizing the vendor to provide the goods and/or services requested. Any authorization of a purchase to a vendor without a purchase order is not valid and will require the approval of the Department Director and the Financial Services Director. Once the purchase order is created, the Purchasing Division may electronically transmit the purchase order number to the department who may forward to the vendor representative.

Any department requiring assistance for any purchase, regardless of the estimated cost, should contact the Purchasing Division.

## **§2-104 Processes**

---

### **1) Petty Cash (\$0 to \$50.00)**

No quotes are required when purchasing items with petty cash. Any item bought with petty cash cannot exceed \$50.00

### **2) Purchases less than \$ 2999.99**

Purchases less than \$ 2999.99 do not **require** competitive bidding (however, competition is encouraged), quotation forms, or purchase orders. Directors, or their approved designees, may without further approval of the Purchasing Manager, make purchases less than \$ 2999.99. Director approved designees may authorize invoices for payment and forward to the Financial Services Department (FSD) via the Payment Request Form.

### **3) Purchases of \$3,000 to \$ 49,999**

The Department must submit every purchase request for \$3,000 or more to the Purchasing Manager for approval through the Requisition Process. If a purchase is \$3,000 or greater, the Department Liaison must contact at least two Historically Underutilized Businesses (HUB), unless the list fails to identify a HUB that provides similar goods or services in Fort Bend County according to *Texas Government Code, Chapter 252.0215*.

The Department must obtain at least three bid prices or quotes in writing, including any HUB quotes, and attach each to the purchase requisition, unless exempted from the competitive process. The Purchasing Division will issue a purchase order when proper authorization is obtained.

### **4) Purchases for \$50,000 and over**

The City Manager must approve, through the requisition process, all expenditures for \$25,000 or more. Except as provided in Non-Competitive Bid Items, page 18, competitive bids are required, and the City must formally advertise for bids and award the bid to the lowest responsible bidder, or to the best value bid for the city if the proposed purchase is \$50,000 or more according to the City policy.

The department shall enter a requisition when initiating the request for contractual goods and services. The formal bid procedures takes at least four to six weeks. The

Purchasing Manager will be responsible for vendor solicitation and legal advertisements before the bid opening. Such goods and services may be acquired by the issuance of a purchase order. All purchases greater than \$ 50,000 require the prior approval of the City Council.



### *B. Purchasing Process*

---

1. All purchases \$3,000 and over shall be made by an official City of Missouri City Purchase Order.
2. Purchase requisitions will be initiated by the City departments and used to generate a Purchase Order. The department director or their designee shall approve all requisitions through the Munis Purchasing Workflow detailed above.
3. Once approved by the department director, the Purchasing Manager may approve the purchase order. All liability for processing the purchase order is the responsibility of the Financial Services Department.
4. A purchase requisition must clearly and accurately represent all of the following requirements:
  - a. Company name or suggested vendor and address, if available.
  - b. Date
  - c. Shipping instructions (Complete shipping address including receiver's name and department)
  - d. Quantity and unit of item(s)
  - e. Description of goods or services ordered
  - f. Unit price
  - g. Discount (Make note of any discount even if \$0 or 0%)
  - h. Prices extended and totalled correctly
  - i. Freight and/or delivery charges if applicable
  - j. Vendor contract phone and email.
  - k. Account code to be charged

### *C. Requisition Process*

---

1. No ordering of goods and services \$3,000 or over will be processed through Purchasing without an approved and budgeted requisition.
2. Requisitions are to be complete and specific.
3. A specific date by which the item is needed must be provided. Requisitions marked "RUSH" or "AS SOON AS POSSIBLE" will be processed according to date of receipt in the Purchasing Division.

4. Purchasing will review requisitions based on previous experience with the item, records of past purchases, and vendor catalogues. Purchasing Manager retains the right to change the vendor, if deemed to be in the best interest of the City.

#### *D. Tax Exemptions*

---

The City of Missouri City is exempt from payment of taxes under Chapter 20, Title 122A, Article 20.04, Revised Civil Statutes of Texas, for the purchase of tangible personal property. Any use of the City's tax exemption certificate for personal purchase is prohibited. Anyone using the City's tax exemption certificate for personal purchases may be subject to prosecution under the Texas Penal Code, Chapter 39, Abuse of Office, Section 39.01.

The Texas Sales Tax Exemption Certificate may be requested from the Purchasing Division.

#### *E. Capitalized Fixed Assets*

A capitalized fixed asset is tangible and intangible property that the City can leverage as a resource in providing services to the residents and inhabitants of the City. A capitalized fixed asset includes land, infrastructure, buildings, furniture and fixtures, motor vehicles and equipment with a cost of \$5,000 or more and a useful life of more than two years. Capitalized fixed assets are acquired for use in normal operations and are not for resale. These assets are long-term in nature and are subject to depreciation. Capitalized assets and projects should be charged to a capital project asset account. Items costing less than \$5,000 should not be charged to a capital account. Any capital purchases/acquisitions (i.e. new buildings, significant building renovations, new vehicles or other motorized equipment, or real property) should be reported to the Risk Manager for property liability insurance evaluation.

## **§2-105 Non Competitive Bid Items**

---

### **Statement**

The City may not require competitive bids for any of the following goods and services. Such goods and services may be acquired by the issuance of a purchase order or execution of a contract.

#### *F. Emergency Situations*

---

An emergency is an unforeseen situation that adversely and unduly affects the life, health, or convenience of the citizens of Missouri City; or; a circumstance that would cause a loss to the City.

In an emergency, the department director may proceed with the emergency acquisition. If the cost is \$3,000 or more, the department shall send a confirming requisition, along with a completely filled out Certification of Emergency Purchases form (Attachment B) and invoices to the Purchasing Manager within one business day of completion or receipt of goods or services. The Purchasing Manager will then assign a purchase order number and advise the user department to forward that number to the appropriate vendor in accordance with *Texas Local Government Code 252.022 (1), (2) & (3)*.

#### *G. Professional Services*

---

Professional services means services within the scope of the practice, as defined by state. The City may not select a provider of professional services or a group or association of providers or award a contract for the services based on competitive bids submitted for the contract or for the services, but shall make the selection and award; (1) on the basis of demonstrated competence and qualifications to perform the services; and (2) for a fair and reasonable price. The professional fees under the contract: (1) must be consistent with and not higher than the recommended practices and fees published by the applicable professional associations; and (2) may not exceed any maximum provided by law in accordance with Texas Government Code §2254.002, §2254.003.

The City, acting by its City Manager or appropriate department director, shall first select the most highly qualified provider of these services on the basis of demonstrated competence and qualifications, and attempt to negotiate with that provider a contract at a fair and reasonable price.

If the City cannot negotiate a satisfactory contract with the most highly qualified provider, then the City shall formally end negotiations with that provider, select the next most highly qualified provider and attempt to negotiate a contract with that provider at a fair and reasonable price.

The City will continue the process described to select and negotiate with providers until the City enters into a contract. The City Manager and/or the appropriate department director will execute contracts for the City.

The following services have been held to be professional services in Texas cases. Attorney General Opinions have defined professional services as:

- Abstracters
- Certified Public Accountant (excluding external auditor)
- State Certified or Licensed Real Estate Appraisers
- Architects
- Models
- Optometrists
- Physicians
- Plat Book Preparers
- Private Consultants
- Property Tax Consultants
- Scientists
- Supervisors of Public Construction Projects
- Surgeons
- Land Surveyors
- Tax Appraisal Engineers
- Landscape Architect
- Attorney
- Professional Engineers in connection with his professional employment or practice.

#### *H. Sole/Single Source Procurement*

---

State law provisions exist for the following types of procurements from a sole source:

1. patents, copyrights, secret processes, or natural monopolies;
2. films, manuscripts, or books.
3. electricity, gas, water and other utility services.
4. captive replacement parts or components for equipment.
5. books, papers, and other library materials for a public library that are available only from the person holding exclusive distribution rights to the materials.
6. management services provided by a nonprofit organization to a municipal museum, park, zoo, or other facility to which the organization has provided significantly financial or other benefits.
7. Emergency repairs to ensure public safety.

After an independent review by the Purchasing Division, an interpretation will be provided to the department as to whether the item under review is a sole source item. Sole source purchases over \$50,000 must be approved by City Council.

A Single Source may be available from more than one vendor but has a justifiable reason to be purchased from a single vendor. See the Sole/Single Source Information Form at the end of this PPP.

*I. Purchase of Land or Right-of-Way*

---

The purchase of land or right-of-way is exempt from competitive bidding requirements.

## §2-106 Change Orders

---

### **Statement**

A change order is required if, after the contract or Purchase Order has been executed:

- a. Changes in plans or specifications are necessary;
- b. It is necessary to decrease or increase the quantity of work to be performed;
- c. It is necessary to decrease or increase the quantity of materials, equipment, or supplies to be furnished.
- d. Change orders for construction and public works contracts will be addressed in Part X.

### *A. Material Changes*

---

A material change in scope, quantities, or related work may not be made. A material change is defined as a substantial revision.

In the event there is a change to a contract or purchase order, a change order form shall be completed for all written contract documents. Also all change orders must include sufficient explanation or detail for the Purchasing Manager to make an informed consent to change the original contract. If necessary, a supplemental memo or supporting documentation may be attached to the change order.

### *J. Changes to Work Performed, Materials, Equipment or Supplies*

---

If the change order involves an increase or decrease of \$50,000 or less, the City Manager (or City Manager's designee) may approve the change order request. **The original contract price may not increase by more than 25 percent. The original contract price may not be decreased by more than 25 percent without the consent of the contractor.**

Once you have reached the cumulative total of more than \$50,000, each subsequent change order must go to Council for approval. This requirement is applicable regardless of the original contract amount.

### *K. Changes to Professional Services*

---

Changes to the standard Professional Services Contract for Architects and Engineers may be approved by the City Manager (or City Manager's designee) provided that the change order does not increase or decrease the original contract amount by more than \$50,000.

Once you have reached the cumulative total of more than \$50,000, each subsequent change order must go to Council for approval. This requirement is applicable regardless of the original contract amount.

#### *L. Changes to All Other Professional Services Contracts*

---

Written change orders to the Standard Consultant Contract may be approved by the City Manager or the City Manager's delegate, provided that the change order does not increase the amount of the Contract by more than fifty thousand dollars (\$50,000.00). Changes that increase the contract by more than \$50,000 must be approved by the City Council prior to commencement of the services or work.

#### *M. Change Order Routing Procedures*

---

##### 1) Change Orders of \$0.01 to \$2,999.99

Approval for change orders less than \$3,000 may be authorized by the Department Director. The change order form is required and shall be approved by the following people:

- Department Director
- Project Manager
- Contractor

In the event a purchase order is created, change orders must be forwarded to Purchasing within one week of execution in order to increase/decrease the encumbrance on the Purchase Order.

##### 2) Change Orders of \$3,000.00 to \$50,000.00

Change orders for \$3,000 to \$50,000 must be pre-approved by the following people prior to performance of the work:

- Project Manager
- Purchasing Manager
- Department Director
- Financial Services Director
- City Manager
- Contractor

Executed change orders must be forwarded to Purchasing within one week of execution in order to increase/decrease the encumbrance on the Purchase Order.

##### 3) Change Orders Greater than \$50,000.00

All change orders greater than \$50,000 of the original contract amount are subject to the bidding statute and require Council approval prior to the commencement of the services or work.

#### *N. Electronic Bids Policy*

---

Electronic sealed bids or proposals shall be in accordance with Section 252.0415(a) of the Local Government Code requiring the identification, security, and confidentiality of electronic bids or proposals to remain effectively unopened until the proper time. The electronic bids shall not be opened or printed until after the bid offer closes.



## §2-107 Historically Underutilized Business (HUB)

State law requires a City to attempt to contact at least two (2) historically underutilized businesses if the City makes an expenditure between \$3,000 and \$50,000 (See Exhibit A – Requisition Coversheet, Section II).

- (1) *Definition.* Vendor must be (a) at least 51% owned by an Asian Pacific American, Black American, Hispanic American, Native American, American woman and/or Service Disabled Veteran, (b) an entity with its principal place of business in Texas, and (c) has an owner residing in Texas with a proportionate interest that actively participates in the control, operations and management of the entity's affairs.
- (2) *Requirements.* According to §252.0215 of the Texas Local Government Code, the City, in making an expenditure of more than \$3,000 but less than \$50,000, must contact at least two (2) HUBs on a rotating basis, based on information provided by the comptroller. If the list fails to identify a HUB in Ft. Bend or Harris County, the City is exempt. If the expenditure is for less than \$3,000 or for more than \$50,000, this special notification requirement does not apply.
- (3) *Procedure.* Departments must contact at least two (2) HUBs in the procurement process of construction, goods and services (including professional and consulting) if the expenditure is between \$3,000 and \$50,000. To determine what businesses within the county are classified as HUBs, departments can access the comptroller's website: <https://mycpa.cpa.state.tx.us/tpasscmblsearch/index.jsp>, select "HUBs Only" and enter the appropriate search criteria. Documentation must be presented to the Purchasing Division via the "Requisition Coversheet" form (Exhibit A), certifying that requesting department either made contact with available Ft. Bend or Harris County HUB vendors or that no applicable HUB vendors were identified in Ft. Bend or Harris County for the particular commodity being ordered.

## §2-108 Small Business Program

The City places great importance on affording small businesses and vendors the opportunity to bid on **construction related contracts** to be awarded by the City. Businesses that register with the City will be contacted by the City's Purchasing Office whenever bids or quotes greater than \$ 50,000 are solicited in the businesses specific commodity.

On July 21, 2014, City Council passed a resolution adopting the Small Business Policy to further efforts to encourage and engage small businesses with the City's procurement process.

To encourage participation in the City procurement process, all regional businesses in the Houston-The Woodlands-Sugar Land Metropolitan Statistical Area (MSA) that meet the United States Small Business Administration size standards (13 C.F.R. Part 121) will receive:

- Notification targeted to its trades and service area, in any notice required by law, from the City for contracts of \$50,000 or more, and;
- Notification of, and access to at least two workshops or seminars to be held by the City annually that relate to City procurement.

As part of the program, 5 points on a 100 point scale will be awarded to a small business who makes a good faith effort to subcontract with one or more Missouri-City owned or domiciled small businesses involving contracts of \$50,000 or more solicited through competitive sealed proposals.

---

#### **§2-109 Certificate of Interested Parties (Form 1295) Effective January 1, 2016**

In 2015, the Texas Legislature adopted House Bill 1295, which added section 2252.908 of the Government Code. The law states that a governmental entity or state agency may not enter into certain contracts with a business entity unless the business entity submits a disclosure of interested parties to the governmental entity or state agency at the time the business entity submits the signed contract to the governmental entity or state agency. The law applies only to a contract of a governmental entity or state agency that either (1) requires an action or vote by the governing body of the entity or agency before the contract may be signed or (2) has a value of at least \$1 million. The disclosure requirement applies to a contract entered into on or after January 1, 2016.

---

#### **§2-110 Tax Exempt Status**

The City is exempt from federal, state, and local taxes except in certain prescribed cases. A sales tax exemption certificate is available from the Accounting Department and will be furnished to any of the City's suppliers upon request.

Employee use of any tax exemption is solely at the discretion of the Director of Finance. Use of exemptions for personal use is strictly prohibited. Violators will be reported to the Director of Finance for disciplinary action.

---

#### **§2-111 Confidential Information**

It shall be a breach of ethics for any employee or former employee of the City of Missouri City to knowingly use confidential information for actual or anticipated personal gain, or for the actual or anticipated gain of any person.

## CHAPTER 3 ~ SOURCE SELECTION

### Part A ~ Methods of Source Selection

#### §3-101 Methods of Source Selection

There are a variety of methods available to acquire goods and services. Unless otherwise authorized by law, all City contracts shall be awarded by one of the following methods (see Exhibit A – Requisition Coversheet, Section III):

- a) **Section 3-102 (Competitive Sealed Bidding);**
- b) **Section 3-103 (Competitive Sealed Proposals);**
- c) **Section 3-104 (Construction Related Procurements);**
- d) **Section 3-105 (Purchases less than \$ 50,000);**
- e) **Section 3-106 (Sole Source Procurements);**
- f) **Section 3-107 (Emergency Procurements);**
- g) **Section 3-108 (Cooperative Procurements);**
- h) **Section 3-109 (Separate, Sequential or Component Purchases).**

Dollar Range	Procedure
\$0.00 to \$3,000.00	<ul style="list-style-type: none"><li>○ City departments may contact vendors directly for price quotation, although competition is recommended or a purchase from a Cooperative; State Contractor, etc.</li><li>○ Procurement Cards may generally be used for purchases up to \$1,000.00.</li></ul>
\$3,000.01 to \$49,999.99	<ul style="list-style-type: none"><li>○ City departments and/or Purchasing will solicit a minimum of three informal quotes (should be written quotes). A minimum of one (1) minority-owned business and one (1) woman-owned business shall be invited to quote, if available, documented on the Requisition Coversheet and sent to the Purchasing Division.</li><li>○ Purchasing will use its discretion to issue a solicitation and obtain competitive bids via the City's website. Purchasing staff will consult with user department personnel to develop applicable bid specifications.</li><li>○ Requisition should be entered by department. Requisition Coversheet should be sent to Purchasing along with all quotes obtained.</li><li>○ Purchase Orders are generally created by Purchasing within two business days of approved requisition.</li></ul>
\$50,000.00 and up	<ul style="list-style-type: none"><li>○ Purchasing must issue a formal solicitation and obtain competitive sealed bids.</li><li>○ Requires advance Public Notice of the bid opportunity in the City's Newspaper of Record. Minimum posting is 21-days from original 2-week newspaper ad.</li><li>○ Award of bid requires approval by City Council.</li></ul>

- |  |  |
|--|--|
|  | <ul style="list-style-type: none"> <li>○ Requires CIP Form 1295 (see item 2-107)</li> <li>○ Entire process should be estimated at 45-60 days.</li> </ul> |
|--|--|

### **§3-102 Competitive Sealed Bidding (Request for Bid)**

(1) *Conditions for Use.* Contracts shall be awarded by competitive sealed bidding for any solicitation that is projected to exceed \$50,000 except as otherwise provided in Section 3-101 (Methods of Source Selection).

(2) *Request for Bids.* State law requires a formal, competitive process for purchases of more than \$50,000 (Texas Local Government Code §252.021). However, there are sixteen (16) general exceptions delineated in Section 252.022 of the Local Government Code. <http://www.statutes.legis.state.tx.us/SOTWDOcs/LG/htm/LG.252.htm>.

Generally notwithstanding the aforementioned, a Request for Bid shall be issued and shall include, at a minimum:

- the purchase description
- contractual terms and conditions applicable to the procurement
- any special terms and conditions
- criteria for evaluating the bids received
- whether the bid will be awarded by line item, groups of items or the entire bid

(3) *Public Notice.* Any solicitation that is projected to exceed \$50,000 (at a minimum) will be advertised. In accordance with §252.041 of the Texas Local Government Code: “notice of the time and place at which the bids will be publicly opened and read aloud must be published at least once a week for two consecutive weeks in a newspaper published in the municipality. The date of the first publication must be before the 14<sup>th</sup> day before the date set to publicly open the bids and read them aloud.” Bids are also posted on the City’s website and Onvia/DemandStar and/or State of Texas Electronic State Business Daily (ESBD) (bid notification systems).

(4) *Bid Opening.* Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the Request for Bids. The amount of each bid, and such other relevant information as may be specified by regulation, together with the name of each bidder shall be recorded; the record and each bid shall be open to public inspection.

(5) *Bid Acceptance.* Bids shall be unconditionally accepted without alteration or correction, except as authorized in this manual. Un-opened bids are to be time and date stamped at the office of the City receptionist (City Hall) to validate the time of receipt. The clock located in the City Hall receptionist’s area will be the official time. Late bids shall not be considered and will be returned un-opened to the bidder. Bids which are lacking an appropriate signature on the Bid Proposal page or Affidavit form will be rejected. The Affidavit allows bidders to verify that they are not in arrears in their obligations to the City.

Bids which are not received in a sealed envelope by bid opening date/time will be rejected by the Purchasing Division. This includes all envelopes, which are secured by metal clasp, twist tie string, etc. or those, which do not otherwise preclude unauthorized access. Bidders who deliver their bids in an envelope which is not sealed may be allowed to correct this deficiency provided they do so before time/date specified for opening of bids.

(6) *Bid Evaluation.* Bids shall be evaluated based on the criteria set forth in the Request for Bids in order to determine which represents the lowest responsive and responsible bidder. Any criteria, other than price, to be used in evaluating solicitations shall be clear and exact and stated in the Request for Bids. They must be stated with sufficient clarity and exactness to inform each bidder of the factors which will be used in evaluating a bid in relation to others. This statement enables bidders to estimate, within reasonable limits, the effect of the application of the evaluation factors to their bid. Factors such as estimated quantities, and delivery time when the need is urgent, together with liquidated damages in case of delay and any other circumstances which may cause the award to be made in an "unusual" manner, must be set forth in the request for quotations or Request for bids.

If a bid is non-responsive, it shall be rejected and there is no need to continue the evaluation. Rejected bidders are not to be considered for award.

*Responsiveness* is compliance with the requirements of the solicitation, including specifications and contractual terms and conditions. It also insures that all bidders respond to a solicitation in a common manner that provides the basis for equal competition. Absolute conformity is not required. Conformity in material respects suffices. This protects the bidders from being denied from the competition for reasons that are inconsequential. Failure by the bidder to accept the requirements of the bid is grounds for rejection of its bid. Some common instances where bids must be rejected and declared non-responsive are:

- The bidder states that it will not accept an award unless the solicitation terms and conditions are modified or altered.
- The bidder states that it will only accept an award for all line items when the solicitation allows award by line item or aggregate grouping of line items.
- The bid is not submitted on the City's Bid Proposal page.
- The Affidavit is not signed.
- The bidder is found to be in arrears in their obligations to the City.
- The bidder has been identified on the Federal Excluded Parties List System (EPLS) at [www.sam.gov](http://www.sam.gov). See §3-115.
- The bid item does not meet the stated specifications and the bidder has not indicated the item bid is an alternate.

(7) *Correction or Withdrawal of Bids; Cancellation of Awards.* Bidders are allowed to make corrections to their bid only before the bid opening date and time. Bids will still be due at the specified date and time in order to be considered for award. A bid that has been opened may not be changed for the purpose of correcting an error in the bid price. This chapter does not change the common law right of a bidder to withdraw a bid due to a material mistake in the bid.

A bidder choosing to withdraw their bid may do so by providing a signed letter requesting to withdraw their bid. The withdrawal request letter must identify the method of return or identify the person authorized to receive the bid. If no method of bid return is identified, the bid shall be destroyed after bid opening.

*Cancellation* of awards or contracts shall be permitted with City Council approval and is appropriate only under the following circumstances:

- Unavailable, inadequate, ambiguous specifications, terms, conditions or requirements were cited in the solicitation;
- Specifications, terms, conditions or requirements have been revised;
- The supplies or services being contracted for are no longer required;
- The solicitation did not provide for consideration of all factors of cost to the agency;
- Bids received indicate that the needs of the agency can be satisfied by less expensive article differing from that for which the bids were invited;
- All otherwise acceptable bids received are at unreasonable prices or only one bid is received and the agency cannot determine the reasonableness of the bid price;
- No responsive bid has been received from a responsible bidder, or
- The bid process was not fair or equitable.

If any of the above criteria apply to the solicitation and an award is not consistent with the City's best interests, one of the following actions should be taken, as appropriate, after Council approval:

*Re-bid*

1. Document the purchase file with summary narrative fully explaining the decision making process that lead to the decision to re-bid.
2. The narrative must clearly demonstrate that one or more of the statutory criteria are met.
3. Initiate the re-bid process and make changes to bid document as appropriate.

*Cancellation of Request for Bid*

1. The bid may be cancelled if the services or supplies are no longer needed.
2. Document the purchase file with summary narrative fully explaining the decision making process that lead to the decision to cancel the procurement.
3. The narrative must clearly demonstrate that one or more of the statutory criteria are met.

(8) *Award.* The contract shall be awarded with reasonable promptness by the City Council to the lowest responsible bidder or to the bidder who provides goods or services at the best value for the City. In determining the best value for the City, the City may consider those things listed in §252.043 of the Texas Local Government Code. The Best Value Method is determined by considering the following:

- (1) the purchase price;
- (2) the reputation of the bidder and of the bidder's goods or services;

- (3) the quality of the bidder's goods or services;
- (4) the extent to which the goods or services meet the municipality's needs;
- (5) the bidder's past relationship with the municipality;
- (6) the impact on the ability of the municipality to comply with laws and rules relating to contracting with historically underutilized businesses and nonprofit organizations employing persons with disabilities;
- (7) the total long-term cost to the municipality to acquire the bidder's goods or services; and
- (8) any relevant criteria specifically listed in the request for bids or proposals.

If the aforementioned Best Value Method is utilized, it must be specifically stated in the bid as part of the "terms and conditions" for award.

*Identical Bids.*

*Per §271.901 of the Texas Local Government Code:*

(a) If a municipality or district is required to accept bids on a contract and receives two (2) or more bids from responsible bidders that are identical, in nature and amount, as the lowest and best bids, the governing body of the municipality or district shall enter into a contract with only one of those bidders and must reject all other bids.

(b) If only one (1) of the bidders submitting identical bids is a resident of the municipality or district, the municipality or district must select that bidder. If two (2) or more of the bidders submitting identical bids are residents of the municipality or district, the municipality or district must select one of those bidders by the casting of lots. In all other cases, the municipality or district must select from the identical bids by the casting of lots.

(c) The casting of lots must be in a manner prescribed by the mayor of the municipality or the governing body of the district and must be conducted in the presence of the governing body of the municipality or district. All qualified bidders or their legal representatives may be present at the casting of lots.

(d) This section does not prohibit a municipality or district from rejecting all bids.

(e) This section applies to all municipalities and districts required by general or special law or by municipal ordinance or charter to accept bids and award contracts on the basis of the lowest and best bid, but does not apply to bidding for contracts to act as a depository for public funds or as a depository for school funds under Subchapter G, Chapter 45, Education Code.

(9) *Multi-Step Sealed Bidding.* When it is considered impractical to initially prepare a purchase description to support an award based on price, a Request for Information (RFI) may be issued requesting the submission of un-priced offers to be followed by a Request for Bids.

### §3-103 Competitive Sealed Proposals or Request for Proposal

---

- (1) *Conditions for Use.* A contract may be entered into by competitive sealed proposals when the Purchasing Manager or Director or City Manager determines that the use of competitive sealed bidding is either not practicable or not advantageous to the City.
- (2) *Request for Proposals.* Proposals shall be solicited through a Request for Proposals (RFP). The relative importance of price and other evaluation factors must be specified.
- (3) *Public Notice.* Adequate public notice of the RFP shall be given in the same manner as provided in Section 3-102(3). (Competitive Sealed Bidding, Public Notice)
- (4) *Receipt of Proposals.* Proposals shall be opened so as to avoid disclosure of contents to competing offers. Only the name and location of the responding vendors will be announced. A tabulation/record shall be prepared and may be open for public inspection after a contract has been executed.
- (5) *Evaluation Factors.* The RFP shall state the relative importance of price and other factors and sub-factors, if any, that will be considered in awarding a contract. Proposals shall be evaluated by committee to be formed by the Purchasing Manager or designee. The evaluation committee shall screen and rate all of the responses that are submitted.
- (6) *Discussion with Responsible Offerors and Revisions to Proposals.* As provided in the RFP, discussions may be conducted with up to five (5) responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors.
- (7) *Award.* Award shall be made to the responsible offer or whose proposal conforms to the solicitation and is determined in writing to be the most advantageous to the City taking into consideration price and the evaluation factors set forth in the RFP. No other factors or criteria shall be used in the evaluation. Written notice of the award of a contract to the successful offeror shall be given to all offerors.
- (8) *Debriefings.* The Purchasing Manager is authorized to provide debriefings that furnish the basis for the source selection decision and contract award only after an award has been made by City Council.



### **§3-104 Construction Related Procurements**

---

**This policy only relates to major public service projects such as buildings, construction and roads.**

There are other methods of solicitation and contracting allowed by State Law that may be considered by the City Manager based on the nature and extent of the project for general and specific construction.

The Public Works department will assist Purchasing with these specialized processes. Working with Public Works staff, the Purchasing Division will be responsible for maintaining all bid documentation required by State Law and for obtaining all necessary contracts, bonding and insurance for each project as well as conducting pre-bid conferences and bid openings.

#### *Construction Contract Modification Policy*

---

These procedures are to be followed when deviation from the scope of a construction project results in a change in the total contract amount.

#### **Definitions as applied to this policy:**

- **Field Modification** – An item of work that changes the scope of the work and/ or the contract specifications, but is not more than the approved original contract and authorized contingency amount as outlined below.
- **Change Order** – An item of work that changes the scope of the work and the contract amount **plus** the authorized contingency amount, up to 25% over the original contract amount. Any change order **over** 25% of the original contract amount must be re-advertised for bids.
- **Contingency Amount** – A fixed sum of money added to the contract sum. The amount of contingency depends upon the total project amount and complexity of the project. A schedule is attached. The schedule may be modified if an unusually complex project is considered. Any deviation from the typical contingency schedule must be accompanied by written detailed explanation for the deviation for approval by Council.

#### **Contingency Amount Schedule**

1. Water/Sewer Projects	\$1-\$400,000 15%	\$400,001-up 10%
2. Drainage Improvements	\$1-\$400,000 20%	\$400,001-up 15%
3. Street Construction, new	\$1-\$250,000 20%	\$250,001-up 15%

4. Street Reconstruction	\$1-\$500,000 10%	\$500,001-up 5%
5. Building Construction, new	\$1-\$100,000 20%	\$100,001-up 5%.
6. All Others (grading, sweeping, etc.)	10%	

**Policy Application:**

- Field Modifications may be approved by the Development Services Department. Requests for Field Modifications must be accompanied by a written cost quote. Field Modifications costing more than 25% of the project's contingency amount must be approved by the City Manager.
- Change Orders must be approved by City Council action.
- Questions about this policy should be directed to the City Manager, the Director of Financial Services, or the Director of Development Services.

### **§3-105 Purchases Less than \$ 50,000**

---

(1) *Conditions for Use.* Any procurement not exceeding \$49,999 may be recommended by the Department Head or his designee in accordance procedures provided below. Per §3-102 of this manual, Competitive Sealed Bidding, purchases above \$50,000 will be procured by the Purchasing Division. Per §3-105 of this manual, purchases shall not be artificially divided so as to constitute a small purchase under this Section.

**Note: Any purchase expected to exceed \$50,000 initially and/or in the aggregate must go through a solicitation process and be approved by City Council prior to entering into or agreeing to any contract.**

(2) *Request for Quotes.* Quotes are to be solicited for purchases between \$3,000 and \$49,999.

- a) A minimum of three (3) timely quotations shall be sought from vendors, if available. If fewer than three (3) sources are solicited, the reasons are to be explained on the Requisition Coversheet.
- b) A minimum of one (1) minority-owned business and one (1) woman-owned business shall be invited to quote, if available, documented on the Requisition Coversheet and sent to the Purchasing Division. See § 2-106.
- c) Awarded to the lowest, responsive and responsible quote. Quote submitted by a qualified bidder with the lowest or best price and whose business and financial capabilities, past performance and reputation meet the required standards.
- d) If the description of the need is lengthy or complicated, a written solicitation should be used.

The following elements should, at a minimum, be included in a Request for Quotes:

- 1) Administrative information: name, address, and phone number of using department and any special shipping instructions.
- 2) Date of the quote, including duration of quote.
- 3) Any special terms and conditions.
- 4) The purchase description.
- 5) Specifications covering the item or items needed.
- 6) Criteria for evaluating the quotes received.

### **§3-106 Cooperative Procurements**

---

(1) *Definition.* The Interlocal Cooperation Act, Chapter 791 of the Government Code and Chapter 271, subchapters F and G, of the Local Government Code authorizes local governments to enter into interlocal agreements with other governmental jurisdictions including all states within the United States, independent school districts, counties, councils of governments, and non-profit corporations created to provide various governmental functions/services.

Furthermore, §271.103 of the Texas Local Government Code provides for the purchase of goods and services under Federal supply schedules of the U.S. General Services Administration.

(2) *Requirements.* Purchases of goods and services through co-ops satisfy any state law requiring the City to seek competitive bids for the purchase of the goods or services.

Using departments are requested to contact the Purchasing Division to determine that proper Interlocal Contracts are in place before attempting to secure pricing through any co-ops.

### **§3-107 Separate, Sequential or Component Purchases**

---

§252.062(a) of the Texas Local Government Code states that a municipal officer or employee commits an offense if the officer or employee intentionally or knowingly makes or authorizes separate, sequential or component purchases to avoid the competitive bidding requirements of §252.021 of the Texas Local Government Code. An offense under this subsection is a Class B misdemeanor.

It is important to note that the phrases “separate purchases,” “sequential purchases” and “component purchases” are all specifically defined by §252.001 of the Texas Local Government Code. “Separate purchases” means purchases, made separately, of items that in normal purchasing practices would be purchases in one purchase. “Sequential purchases” means purchases, made over a period of time, of items that in normal purchasing practices would be purchases in one purchase. Aggregate purchases of over \$50,000 should be competitively bid or be on an interlocal contract and be approved by City Council in order to be in compliance. “Component purchases” means purchases of the component parts of an item that in normal purchasing practices would be purchased in one purchase.

## Part B ~ Determinations and Reports

### §3-108 Finality of Determinations

---

The determinations required by Section 3-102(7) (Competitive Sealed Bidding, Correction or Withdrawal of Bids; Cancellation of Awards), Section 3-103(1) (Competitive Sealed Proposals, Conditions for Use), Section 3-103(7) (Competitive Sealed Proposals, Award), Section 3-106 (Sole Source Procurement), Section 3-107 (Emergency Procurements), Section 5-101 (Multi-Year Contracts) are final and conclusive unless they are clearly erroneous, arbitrary, capricious, or contrary to law.

### §3-109 Bid Protests

---

(1) *Notice of Protest.* A vendor wishing to protest any aspect of the procurement process must do so, in writing and submit to the Purchasing Manager. The written protest should include, at a minimum:

- Both the name and address of the protestor, as well as the vendor they represent, if different
- The name of the bid being protested
- A statement of the grounds for protest and any supporting documentation

A protest may be submitted to the Purchasing Manager no later than ten (10) working days after award.

(2) *Staff Review.* A protest must be in writing and supported by sufficient information in order to be considered. A decision and response to the protest will be prepared by the Purchasing Manager or his designee, in consultation with the Department Director and the City Attorney, within fifteen (15) days of receipt of the protest. Within the fifteen (15) day time period, the City may:

- Allow for informal conference on the merits of the protest with all interested parties.
- Allow for reconsideration if data becomes available that was not previously known, or if there has been an error of law or regulation.
- Render a decision supporting or canceling the award, such decision shall be in the form of a staff recommendation.

(3) *Appeals.* If the protesting vendor does not agree with staff recommendation, they may appeal to the City Manager within five (5) working days. Staff recommendations may be made available for public review prior to consideration by the City Manager. City Manager will render a decision within thirty (30) calendar days. His decision will be final.

### **§3-110 Reporting of Anticompetitive Practices**

---

When for any reason collusion or other anticompetitive practices are suspected among any bidders or offerors, a notice of the relevant facts shall be transmitted to the City Attorney for referral to the Attorney General.

### **§3-111 Retention of Procurement Records**

---

All procurement records shall be retained and disposed of in accordance with records retention guidelines and schedules approved by the City Council. All procurement records, which include and are not necessarily limited to: solicitation responses; tabulations, contracts, correspondence, Purchase Orders, etc., must be made available to the City Secretary in order to remain in compliance with the City's Records Retention Schedule.

### **§3-112 Federal Excluded Party Verification-All Funds**

---

For any expenditure, regardless of funding source, in excess of \$25,000.00, the Purchasing Division will run a System for Award Management ([www.sam.gov](http://www.sam.gov)) excluded party search on the prospective awarded vendor prior to issuance of a Purchase Order and maintain a copy of the results in its documentation. Any findings of exclusion, debarment or suspension will result in the vendor being ineligible for participation in City of Missouri City purchases.

### **§3-113 Non-Compliant Purchases**

---

Purchases made without using an authorized purchasing method (Purchase Order, Contract/Agreement or P-Card) require justification and approval by the Departmental and Finance Director prior to the issuance of a Purchase Order or payment. The justification (Non-Compliant Purchase Authorization Form, Exhibit H) from the department's Director should include:

- Documentation of the reason for the non-compliant purchase;
- Name and title of the individual responsible for the purchase;
- Amount of purchase;
- Signed statement declaring that the individual involved has been informed of proper purchasing procedure;
- Agreement that future purchases will be made in accordance with purchasing procedures.  
**Note:** Future non-compliant purchases may be refused reimbursement.
- Appropriate signature of the Departmental Director AND the City Manager.

Recurring non-compliant purchases may be reviewed for further discipline, up to and including termination.

### **§3-114 IT (Information Technology) Related Purchases**

---

IT related purchases, regardless of its value and scope, including, but not limited to software (downloaded or otherwise); peripheral items: USB drive, external hard drives, phones, desktops; laptops, monitors, printers/copiers, keyboards, mouse and any technology based equipment must be approved in ADVANCE by the Director of Innovation and Technology or his designee and purchased by the IT department. Any unauthorized purchase will be deemed against City Policy and the individual will be held responsible for the cost.

## **CHAPTER 4 ~ SPECIFICATIONS AND AMENDMENTS**

---

### **Part A ~ Specifications**

#### **§4-101 Specification Preparation**

---

The creation and submission of specifications to the Purchasing Division is the responsibility of the using department. Purchasing will assist the using department in any way necessary to develop specifications that will promote full and unrestricted competition.

Departments should provide the Purchasing Division at least two (2) weeks to properly prepare a solicitation. It is imperative that using departments carefully plan their requests giving consideration to the Purchasing Division's timelines in connection with department deadlines.

All specifications shall seek to promote overall economy for the purposes intended and encourage competition in satisfying the City's needs, and shall not be unduly restrictive.

#### **§4-102 Specifications Prepared by Other Than City Personnel**

---

The requirements of this chapter regarding the purposes and non-restrictiveness of specifications shall apply to all specifications prepared other than by City personnel, including, but not limited to, those prepared by architects, engineers, and designers.

#### **§4-103 Specification Amendments**

---

If, after issuance of a solicitation, changes must be made in quantity, specifications, delivery schedule, or closing date, or if corrections are needed because of defects or ambiguities, an amendment to the solicitation will be issued, in writing, no later than seventy-two (72) hours prior to the date and time fixed for submission of bids/proposals. Sole issuing authority of addenda shall be vested in the Purchasing Manager. If there was a mandatory pre-bid conference, only those vendors that were in attendance may be notified of amendments. Bidders are required to sign the amendment and submit it with their bid, attesting to the fact that the changes are reflected in their bid. Failure to submit a signed amendment may be grounds for a bid to be rejected. The City assumes no responsibility for the proposer's failure to obtain and/or properly submit any addendum. It is the vendor's responsibility to check for any addendums that might have been issued before bid closing date and time. All addenda will be numbered consecutively, beginning with the number one (1). Addenda will be posted, with the referenced solicitation, to the City website.

#### **§4-104 Pre-Bid Conferences and Site Visits**

---

(1) *Conditions for Use.* A pre-bid conference may be held when specifications or the scope of work is considered somewhat complex and requirements need to be clarified by City personnel. Because of this, some pre-bid conferences are mandatory and any vendor/supplier that does not attend a mandatory meeting will not have their bid considered.



(2) *Process.* The Purchasing Manager of the City of Missouri City or his designee shall conduct all pre-bid meetings. In addition to the Purchasing Manager or his designee, there will be at least one City employee from the requesting department present at the pre-bid meeting. This employee must be knowledgeable of the bid specifications and should be prepared to answer all questions that pertain to the specifications. Pre-bid conferences and site visits are an opportunity for dialogue between the Purchasing Division, the using department and the supplier community. Both facilitate the timely exchange of information to enable all involved to clarify bidding requirements and specific program needs. Bidder servicing or equipment capabilities, application of industry requirements or standards may be clarified. In addition, any need for changes in specifications or bid requirements may be identified to facilitate a more competitive environment or to better define the City's needs so that we obtain the desired materials, equipment or services to meet our program needs. Sign-in sheets will be made available to all attending the pre-bid conference. Bids received from vendors not listed on the role of attendees of mandatory pre-bid conferences will be rejected and returned unopened to the bidder.

## CHAPTER 5 ~ LEGAL REQUIREMENTS

---

### §5-101 Insurance

---

Contractors performing work on City property or public right-of-way for the City of Missouri City shall provide the City a certificate of insurance listing City of Missouri City as additional insured and evidencing the coverages and coverage provisions identified below. All insurance must be written by an insurer licensed to conduct business in the State of Texas, unless otherwise permitted by Owner. The Contractor shall, at his own expense, purchase, maintain and keep in force insurance that will protect against injury and/or damages which may arise out of, or result from, operations under a contract, whether the operations be by himself or by any subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable.

For construction and construction-related projects, all contractors and sub-contractors, including those delivering equipment or materials, performing service on a Public Works project, shall provide Texas workers' compensation for all employees. All contractors shall provide proof of coverage satisfactory to the Purchasing Division within fifteen (15) days of award. Contractor shall not commence until certificate has been provided to the Purchasing Division. Prime contractors are responsible for ensuring that sub-contractors carry the same or higher insurance amounts as those required of the prime contractor. Contractors shall post required signs at job site(s) informing all workers of their right to workers' compensation coverage.

The following minimum limits of insurance and bond coverage will be required:

Contractor shall maintain, at his sole cost, at all times while performing work hereunder, the insurance and bond coverage set forth below with companies satisfactory to the Owner with full policy limits applying, but not less than stated. A certificate evidencing the required insurance and specifically citing the indemnification provision set forth in the Agreement shall be delivered to the Owner within fifteen (15) days that Notice to Proceed has been accepted by Contractor.

- (1) Workman's Compensation Insurance as required by laws and regulations applicable to and covering employees of Contract engaged in the performance of the work under this agreement with a limit of not less than \$1,000,000.00;
- (2) Employers Liability Insurance protecting contractor against common law liability, in the absence of statutory liability, for employee bodily injury arising out of the master-servant relationship with a limit of not less than \$100,000.00.

- (3) Comprehensive General Liability Insurance including products/completed operation with limits of liability of not less than: Bodily Injury \$1,000,000.00 per each person, \$1,000,000.00 per each occurrence/\$2,000,000.00 aggregate; Property Damage \$1,000,000.00 per each occurrence;
- (4) Excess Liability Insurance Comprehensive general Liability, Comprehensive Automobile Liability and coverage's afforded by the policies above, with the minimum limits of \$5,000,000.00 excess of specified limits;
- (5) Builders "All-Risk Insurance" protecting the respective interest of Owner and contractor and its "Field Subcontractors" covering loss of damage during the course of construction of the Project described in this agreement and all property at the job site or in transit thereto which shall become a part of such Project. Such insurance shall be maintained until such Project is completed and accepted. This insurance shall be terminated with respect to portions of such Project when such portions are completed and accepted; and
- (6) Performance Bond and Payment Bond, furnished as guaranty of the faithful performance of the work and for the protection of the claimants for labor and material, each in the full amount of the Contract price, executed by a surety company or surety companies authorized to execute surety bonds under and in accordance with the laws of the State of Texas.

#### **Errors and Omissions Insurance (Professional Liability Insurance)**

Errors and omissions, or professional liability, insurance shall be required to cover professional advice and service providing individuals and companies with limits of liability not less than \$1,000,000.00, per each occurrence.

#### **Medical Malpractice Insurance**

Medical malpractice insurance shall be required to cover medical services with limits of liability not less than \$1,000,000.00, per each occurrence.

Exceptions to these minimum requirements may be increased/decreased at the discretion of the City Manager or his designee.

In no event shall these minimum requirements be less than the maximum claim amounts listed under the Texas Tort Claims Act (Texas Local Government Code §101).

#### **§5-102 Prompt Payment Act**

---

Payment will be made upon receipt of the original invoice and the acceptance of the goods or services by the City of Missouri City, in accordance with the State of Texas Prompt Payment Act. The City's standard payment terms are net 30, i.e. payment is made within thirty (30) days from the date of the invoice. Exceptions for early payment may only be approved under the authorization of the Department Director and Finance Director.

#### **§5-103 Public Works Bonding Requirements**

---

**Chapter 2253 of the State of Texas Government Code states the following regarding public work performance and payment bonds are located at**

**<http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.2253.htm>**

## **CHAPTER 6 ~ CONTRACT ADMINISTRATION, MODIFICATION AND TERMINATION**

---

### **Part A ~ General Information**

All written contracts/agreements, whether they have been competitively bid or not, require appropriate approval. That approval is delineated in §2-102 of this Policy on Signatory Authority. Legal review is required on all non-City approved written contracts/agreements.

### **Part B ~ Preferred Type of Contract**

The preferred type of contracts to use for most City procurement is firm fixed price. It requires minimum administration and provides maximum incentive to the supplier.

#### **§6-101 Multi-Year Contracts**

---

(1) *Specified Period.* Unless otherwise provided by law, a contract for supplies or services may be entered into for generally two (2) years with a renewal option of typically not more than three (3) one year renewals (one year at a time). The term of the contract and conditions of renewal or extension, if any, are to be included in the solicitation and funds are available for the first fiscal period at the time of contracting. Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds therefore.

(2) *Cancellation Due to Unavailability of Funds in Succeeding Fiscal Periods.* When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract shall be cancelled.

### **Part C ~ Basic Contract Process**

#### **§6-102 Definition**

---

Basically, an agreement is necessary, regardless of cost, when a person or a company will perform a service for the City, either on City property or at another location. The following agreements have been approved by the Purchasing Manager and the City Attorney for use in contracting with vendors. Generally, these agreements are considered in two unique categories:

##### **1. Professional/Consulting Service Agreements**

The State of Texas, under Government Code 2254, has defined Professional Services as those services performed by:

- ❖ "Professional services" means services: (A) within the scope of the practice, as defined by state law, of: (i) accounting; (ii) architecture; (iii) landscape architecture; (iv) land surveying; (v) medicine; (vi) optometry; (vii) professional engineering; (viii) real

estate appraising; or (ix) professional nursing; or (B) provided in connection with the professional employment or practice of a person who is licensed or registered as: (i) a certified public accountant; (ii) an architect; (iii) a landscape architect; (iv) a land surveyor; (v) a physician, including a surgeon; (vi) an optometrist; (vii) a professional engineer; (viii) a state certified or state licensed real estate appraiser; or (ix) a registered nurse.

### **Professional Services**

---

- (1) *Definition.* Generally, those services performed by an individual or group of individuals where education, degrees, certification and/or license is required for qualification to perform the service. The service is usually based on intellectual qualifications as opposed to craftsmanship. Certain professions are specifically named in the Professional Services Procurement Act, Government Code Sec. 2254.002(2)(a).
- (2) *Method of Selection.* The City may not select a provider of professional services or a group or association of providers or award a contract for the services on the basis of competitive bids submitted for the contract or for the services, but shall make the selection and award: (1) on the basis of demonstrated competence and qualifications to perform the services; and (2) for a fair and reasonable price. The professional fees under the contract may not exceed any maximum provided by law per Government Code §2254.003 and must be consistent with and not higher than the recommended practices and fees published by the applicable professional associations.

### **§6-103 Competitive Sealed Qualifications**

---

- (1) *Conditions for Use.* A contract may be entered into by competitive sealed qualifications for such professional services as architecture, land surveying, or professional engineering.
- (2) *Request for Qualifications.* Qualifications shall be solicited through a Request for Qualifications (RFQ). The relative importance of competence, qualifications and other evaluation factors must be specified.

For projects where fees are less than \$50,000, the City Manager may permit a modified selection process to determine the most qualified vendor.

- (3) *Public Notice.* Adequate public notice of the RFQ shall be given in the same manner as provided in §3-102(3). (Competitive Sealed Bidding, Public Notice)
- (4) *Receipt of Qualifications.* Qualifications shall be opened so as to avoid disclosure of contents to competing offerors. Only the name and location of the responding vendors will be announced. A Register of Qualifications shall be prepared and shall be open for public inspection.

- (5) *Evaluation Factors.* The RFQ shall state the relative importance demonstrated compliance with requirements, offeror qualifications, financial capacity, project schedule and other factors, if any. Qualifications shall be evaluated by committee to be formed by the Purchasing Manager. The evaluation committee shall screen and rate all of the responsive submittals.
- (6) *Discussion with Responsible Offerors and Revisions to Proposals.* As provided in the RFQ, discussions may be conducted with up to five (5) responsible offerors who submit qualifications determined to be reasonably susceptible of being selected for award for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion. In conducting discussions, there shall be no disclosure of any information derived from qualifications submitted by competing offerors.
- (7) *Negotiations.* Once the evaluation committee has selected the most highly qualified provider, the City Manager, or his designee, must attempt to negotiate with that provider a contract at a fair and reasonable price. If a satisfactory contract cannot be negotiated with the most highly qualified provider, the City Manager, or his designee, shall formally end negotiations with that provider, select the next most highly qualified provider and attempt to negotiate a contract with that provider at a fair and reasonable price. This process shall continue until a contract is entered into.
- (8) *Award.* Award shall be made to the responsible offeror whose qualifications conform to the solicitation and is determined in writing to be the most advantageous to the City taking into consideration the evaluation factors set forth in the RFQ. No other factors or criteria shall be used in the evaluation.
- (9) *Debriefings.* The Purchasing Manager is authorized to provide debriefings that furnish the basis for the source selection decision and contract award only after an award has been made by City Council.

The State of Texas, under Government Code 2254, has defined Consulting Services as those services performed by:

- ❖ "Consulting service" means the service of studying or advising a state agency under a contract that does not involve the traditional relationship of employer and employee. "Consultant" means a person that provides or proposes to provide a consulting service.

Under included exhibits, a pre-approved agreement is available to City employees wishing to engage either a provider for Professional/Consulting Services.

## **2. City Contract**

A City Contract is required for providers who are performing a service for the City, usually on City property, where the City must ensure that all protections for the City (insurance, Worker's Comp, etc.) are in full force and effect. For example, grounds maintenance, software, maintenance agreements and janitorial services, etc. are prime examples of general services that would require a Vendor Agreement. Purchasing has developed a formal agreement for these type services which has been approved by the City Attorney. The City Contract is included in this correspondence as an exhibit.

In both of the aforementioned instances, the Signatory Policy noted on page 14 of this document is understood. Only those employees with specific authority may obligate the City and sign an agreement.

### **§6-104. Initiation of Contract**

---

In order to begin the process of a contract initiation, a Department must enter a requisition for the said goods or services (or combination). This requisition will begin the process for solicitation; documentation and execution. After the contract or agreement has been fully executed (all parties have agreed and signed), Purchasing will electronically file in the appropriate file and to the City Secretary for electronic filing and retention.

The requisition and subsequent Purchase Order will directly reflect the agreement. **No** payment will be issued to the provider until the complete, executed file is in place in the Purchasing system.

### **§6-105 Monitoring and Contractor Report Cards**

---

(1) *Using Departments.* The using department is responsible for monitoring the vendor and the goods and services being provided to the City. It is imperative that using department heads and Directors familiarize themselves with their contracts in order to help facilitate vendor compliance. The scope of work, services and the terms and conditions of the contract must be met prior to making payment.



## **§6-106 Renewals**

---

- (1) *Vendor Agreement.* The Purchasing Division, with the cooperation and approval of the using department, shall be responsible for obtaining, in writing, a vendor's agreement to renew a contract at the original contract price or with pre-approved escalation. Once received, the Purchasing Division shall forward this information to the using department.
- (2) *Purchasing Division.* The Purchasing Division shall be responsible for preparing the necessary paperwork to submit a contract renewal to City Council for approval. The renewal process should be completed prior to a contract's expiration to allow for uninterrupted operations.

## **Part D ~ Contract Modifications and Terminations**

### **§6-106 Change Orders**

---

- (1) *Definition.* As stated in Texas Local Government Code §252.048, if changes in plans or specifications are necessary after the performance of the contract is begun or if it is necessary to decrease or increase the quantity of work to be performed or of materials, equipment, or supplies to be furnished.
- (2) *Requirements.* The original contract price may not be increased by more than twenty-five percent (25%). The original contract price may not be decreased by more than twenty-five percent (25%) without the consent of the Contractor.
- (3) *Appropriations.* The total contract price may not be increased because of the change orders unless additional money for increased costs is appropriated for that purpose from available funds.

### **§6-107 Terminations**

---

- (1) *for Cause.* If, through any cause, a Contractor shall fail to fulfill in a timely and proper manner his obligations under a contract, or if a Contractor shall violate any of the covenants, agreements or stipulations of a contract, the City shall thereupon have the right to terminate the contract by giving written notice to the Contractor of such termination and specifying the effective date thereof, at least thirty (30) days before the effective date of such termination. Notwithstanding, the above, the Contractor shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of the contract by the Contractor, and the City may withhold any payments to the Contractor for the purpose of set-off until such time as the exact amount of damages due the City from the Contractor is determined.
- (2) *for Convenience.* The City may terminate a contract at any time giving at least thirty (30) days notice in writing to the Contractor. If a contract is terminated by the City as provided herein, the Contractor will be paid for the service that it has performed up to the termination date.

## **Part E ~ Maintenance and Lease Agreements**

### **§6-108 Maintenance Agreements**

---

- (1) *Definition.* The City maintains service agreements with manufacturers and authorized service centers for various machines and equipment. Criteria used to determine this need are:
  - (a) The item cannot be repaired by City maintenance personnel without extensive training;
  - (b) The item has many moving mechanical parts or is of such a nature that regular adjustment of an exacting nature is required;
  - (c) The equipment is old, costly to replace, but in adequate shape for continued use.
  - (d) The item is costly and the guarantee has expired.

Computer related equipment is maintained through the Information Technology Department (IT). No computer maintenance agreements will be contracted for, until first approved by IT.

(2) *Responsibility.* It is the using department's responsibility to budget funds for and obtain necessary maintenance agreements. It is also the responsibility of the using department to assure that equipment is serviced per terms of the agreement. The using department must inform Purchasing of any disposition of equipment that makes it necessary to cancel an existing maintenance agreement.

#### **§6-109 Lease Agreements**

---

All lease purchases or capital leases shall be coordinated with the Finance Department. This type of purchase and financing is unique and is generally accounted for through debt service funds, not the customary departmental expenditure accounts.

#### **§6-110 Contract Review and Approval**

---

Regardless of value, the City Manager, or his designee, will review and approve all contracts prior to execution. All contracts will be reviewed and approved prior to execution by the appropriate designee per §2-102 Signatory Authorities and Approval Thresholds. Non-standard contracts will be reviewed as to form by the City Attorney prior to execution.

## CHAPTER 7 ~ SURPLUS MATERIALS AND EQUIPMENT

---

### Part A ~ Disposal

(1) *Definition:* The Purchasing Manager is responsible for the final disposition of City-owned surplus property through a public on-line or live auction. Surplus property shall consist of the following:

- City-owned property, real or personal, which has been retired from service and no future need of same property is anticipated.

(2) With the exception of employee fundraisers, under this provision, an employee may purchase property of any type through City auction if that auction is public and held on-line by a reputable third-party provider.”

(3) Under this provision, an employee may not purchase property of any type through City auction.

(4) *Proceeds:* The Purchasing Manager shall deposit the proceeds from the sale of salvage or surplus property into the City’s general fund or other fund as appropriate.

### §7-101 City-Owned Materials and Equipment

---

(1) *Procedure.* The Purchasing Manager will periodically notify each department of the dates that the department will be available to accept surplus items. Using departments will complete the Surplus Property Disposition Form (Exhibit F) and submit to the Purchasing office via e-mail [purchasing@Missouricitytx.gov](mailto:purchasing@Missouricitytx.gov) or interoffice mail, those items (including vehicles and heavy equipment) that they wish to dispose of.

*Vehicles and Heavy Equipment.* Using departments that have vehicles and/or heavy equipment that they wish to dispose of must contact the City’s Fleet Maintenance Division and arrange for the equipment to be placed at the garage.

(2) *Responsibilities:*

*Purchasing.* The Purchasing Manager shall be responsible for:

- Maintaining an inventory log of surplus items and equipment.
- Preparing an agenda item for City Council approval for the sale of the items and equipment, when appropriate or required.
- Photographing all items and equipment and submitting to the auctioneer, along with descriptions, location, preview dates, contact information, etc.

- Scheduling the auction, coordinating with the auctioneer and overseeing the sale.
- Releasing the property to the successful bidder. No auction items shall be released to any buyer without a paid sales receipt from the Auctioneer.
- Collecting the revenue from the auctioneer and depositing it with Accounting.

*Equipment Services.* Vehicle Maintenance shall be responsible for:

- Preparing the appropriate forms for the Auctioneer and submitting them to Purchasing.
- Removing any decals from the vehicle(s).
- Removing all additional equipment (GPS, siren, etc.) from the vehicle(s).
- Removing all license tags from the vehicle(s).
- Submit notification of transfer with Texas Department of Motor Vehicles.
- Providing adequate personnel to assist in the management, placement and physical removal of auction vehicles and equipment prior to, during and after the auction.
- Issuing an Application for Transfer of Title and the original title to the buyer of vehicles and equipment. (City Secretary's office performs this task.)

*Auctioneer.* The Auctioneer shall be responsible for:

- Providing an on-line internet auctioneering service according to the terms and conditions of the City's most current contract.
- Setting minimum prices on items sold at auction. However, should it be in the best interest of the City to set a minimum price, the item should be appraised by an expert to determine a fair market value.
- Collecting all monies from the successful bidder(s) per the contract agreement.
- Providing receipts to the Purchasing Manager when buyers have rendered payment.
- Submitting payment of the total gross sales less sales tax and Auctioneer commission to the Purchasing Manager, along with the sales recap outlining (for each item sold) the buyer's name, address and amount of sale.

*Buyer.* The successful bidder shall be responsible for:

- Rendering payment to the Auctioneer within timeframe set forth by Auctioneer.
- Removing the property from the City's facility within ten (10) working days, unless other arrangements have been made and approved by the Purchasing Manager.
- The ownership of the property shall revert back to the City if the successful bidder does not comply with the removal time requirement.

## **GLOSSARY OF TERMS**

---

The following definitions are intended to assist you in understanding the language used throughout this manual. When using this manual, if you find a word or words that you may not clearly understand or if it is not defined in this section, please do not hesitate to contact someone in the Purchasing Department for clarification and/or interpretation.

**Local contract** - Contracts protect pricing for a period of one year and are awarded to vendors for supplies, equipment and services routinely required by one or more departments.

**Award** – The presentation, after careful consideration, of a purchase agreement or contract to the selected bidder.

**Best value** - If the sealed competitive bidding requirement applies to the contract for goods or services, the contract may be awarded to the lowest responsible bidder or to the bidder who provides the goods or services at the best value for the City. In determining the best value for the City, we may consider:

- the purchase price;
- the reputation of the bidder and of the bidder's goods or services;
- the quality of the bidder's goods or services;
- the extent to which the goods or services meet the City's needs;
- the bidder's past relationship with the City;
- the impact on the ability of the City to comply with laws and rules relating to contracting with historically underutilized businesses and non-profit organizations employing persons with disabilities;
- the total long-term cost to the City to acquire the bidder's goods or services, and
- any relevant criteria specifically listed in the request for bids or proposals.

**Bid advertisement** - For expenditures over \$50,000 a public notice shall be placed in a newspaper of general circulation and published at least once a week for two consecutive weeks. The notice shall contain the time and place at which bids will be publicly opened.

### **Bonds**

**Bid bond** – A bond required of a contractor to ensure that the contractor will enter into the contract, for which he has submitted a formal written bid and/or proposal.

**Payment bond** – A bond required that ensures that all suppliers and subcontractors of the contractor will be paid for work and/or material supplied in the course of the contract.

**Performance bond** – A bond required that guarantees vendor performance during the execution of the contract.

**Capital equipment** – Assets that are used in operations with a useful life greater than one year and valued at \$5,000 or more at the time of acquisition.

**Change order** – A change order is issued to a purchase order or contract if changes in plans or specifications are necessary in order to increase or decrease the quantity of work to be performed or of materials, equipment, or supplies to be furnished. Change orders must not be issued unless funds are available for the increase and the original contract may not be increased by more than 25 percent. The contract may not be decreased by more than 25% without the consent of the contractor.

**City Council** - The elected officials of the City of Missouri City Missouri City, Texas given the authority to exercise such powers and jurisdiction of all City business as conferred by the City Charter and the State of Texas Constitution and Laws.

**Commodity code** - A specific group of goods or services categorized into distinct classes that have been assigned a numerical reference number within the purchasing and inventory system.

**Competitive bidding** - The process wherein a vendor openly competes with other vendors, through a formal or informal process, for the City's business.

**Component purchases** - Purchases of component parts of an item, which in normal purchasing practices would be purchased in one purchase.

**Consulting services** - The service of studying or advising the City under a contract that does not involve the traditional relationship of employer and employee.

**Contract** - An agreement between the City and a Supplier, with binding legal and moral force, usually exchanging goods or services for money or other consideration.

**Contractor** - The successful vendor(s) awarded a contract by the City of Missouri City Missouri City.

**Delivery date** - The date by which goods or services are needed by the department or are promised by the vendor.

**Emergency** - Purchases that are made to meet a critical, unforeseen need of the City, where the City's ability to serve the public would be impaired if the purchase is not made immediately. Emergency purchases are exempt from standard purchasing procedures and must qualify for exemption as outlined in LGC 252.022. Emergency purchases must follow the procedure set forth in this manual.

**Encumbrance** – Commitments related to unperformed contracts for goods or services.

**Expedite** - To accelerate the purchasing process through normal procedures in order to prevent work stoppage or loss of city equipment or property.

**Goods** - A generic term that includes all types of property to be purchased by the City; equipment, supplies, materials, component and repair parts.

**Interlocal agreement** – An agreement made between two governmental entities to perform governmental functions and services (such as purchasing, records management, police /fire protection, public health, etc.) for another as provided under Government Code Chapter 791.025.

**Invitation to bid** – A formal written document that requests from bidders a firm price and delivery details for specified goods or services. An invitation to bid is generally required when the anticipated level of expenditure will be greater than \$50,000. It may be used any time the Purchasing Manager, the Department, or the City Manager deems it is justified.

**Lowest responsible bidder** - This is the vendor who offers the lowest bid, which meets all the specifications, requirements, and terms and conditions of the invitation to bid. It is expressly understood that the lowest responsible bid includes any related costs to the City, using a total cost concept. The term “responsible” refers to the financial and practical ability of the bidder to perform the contract. The term is also used to refer to the experience or safety record of the vendor.

**Maintenance agreements** – An agreement with equipment manufacturers or authorized service centers for the upkeep of equipment that neither adds to its permanent value nor prolongs its intended life appreciably, but instead keeps it in an efficient operating condition.

**Professional services** - Services rendered by members of a recognized profession or possessing a special skill. Such services are generally acquired to obtain information, advice, training, or direct assistance. (Mental or intellectual skills, rather than physical or manual)

**Purchase** - An act that includes the acquisition of goods or services, to include the act of leasing personal or real property. Separate, sequential, and component purchases shall be treated as a single purchase.

**Purchase order** - A purchaser’s written document to a vendor formalizing all of the terms and conditions of a proposed transaction, such as a description of the requested item(s), delivery schedule, terms of payment, and transportation. When accepted by a vendor, the agreement specified in the purchase order becomes a contract. A purchase order grants the vendor the authority to deliver the goods or services and invoice for the same. It is the City’s commitment to accept the goods or services and pay for them at the agreed price.

**Request for proposal** - A formal written document requesting that potential vendors make an offer for goods or services to the City. The request for proposal method of procurement may be used for all goods and services. RFP’s differ from invitations to bid in that the City is seeking a solution, as described in the document, not a bid/quotation meeting firm specifications for the lowest price. Proposals are evaluated based on criteria formulated around the most important features of a product or service, of which quality, testing, references, availability or capability may be overriding factors, and price is not the sole factor of the award. All request for proposals are kept secret during negotiations until a contract is awarded.



**Request for qualifications** - A formal written document used when soliciting providers of architectural, engineering or land surveying services. The City must comply with Government Code 2254.004 in the procurement of these services. The City must first select the most highly qualified provider of those services on the basis of demonstrated competence and qualifications. After a firm has been selected based on qualifications and experience, then a fair and reasonable fee shall be negotiated. If a satisfactory contract cannot be negotiated with the most highly qualified provider of architectural, engineering, or land surveying services, the City shall formally end negotiations with that firm and select the next most highly qualified firm and begin negotiations with that provider for a fair and reasonable price.

**Requisition** - The source document for all purchasing activity. This form communicates a department's needs to the Purchasing Department and grants authorization to enter into a contractual relationship for delivery of the goods and/or services. A requisition is for communicating internal requirements and should not be used by the departments for the order and delivery of goods and/or services.

**Separate purchases** - Purchases made separately of items that in normal purchasing practices would be purchased in one purchase.

**Sequential purchases** – Purchases, made over a period of time, of items that in normal purchasing practices would be purchased in one purchase.

**Services** - A generic term to include all work or labor performed for the City on an independent contractor basis, including maintenance, construction, manual, clerical or professional services.

**Sole source procurement** - Purchases of goods or services that are available from only one supplier. There may be just one vendor because of patents or copyrights, or simply because the vendor is the only one that supplies the good or service. These purchases are exempt from the standard bidding requirement and must qualify as outlined in LGC 252.022 but must comply with the procedures outlined in this manual.

**Specifications** – A description of the physical or functional characteristics, or of the nature of a supply, service, or construction item; the requirements to be satisfied by a product, material or process indicating, if appropriate, the procedures to determine whether the requirements are satisfied. Specifications should be descriptive, but not restrictive.

**State contract purchase** – Items that are available through the State of Texas Procurement and Support Services Cooperative Purchasing Program. The State has publicly advertised and received qualified bids for specific items. These appear on a listing periodically published by the State. The City of Missouri City Missouri City has elected to participate in the cooperative purchasing program for governmental subdivisions and other state agencies.

**Surplus** - Item(s) no longer needed by a department, regardless of its value or condition.

**Vendor** - A generic term applied to individuals and companies alike, who provide goods and services to the City.

ATTACHMENT A

**SOLE/SINGLE SOURCE FORM**

---

**SOLE SOURCE:** Items available from only one source because of patents, copyrights, secret processes or natural monopolies. **A single source** is available from more than one vendor but has a justifiable reason to purchase from that single source.

**Department:** \_\_\_\_\_

**Vendor:** \_\_\_\_\_

**Services/Equip.:** \_\_\_\_\_

**Dollar Amount \$** \_\_\_\_\_

**Date:** \_\_\_\_\_

The vendor/equipment/services stated above must be purchased as a SOLE SOURCE/SINGLE SOURCE purchase as defined by the local government code for the following reasons: (circle one)

1. Patents
2. Copyrights
3. Secret Processes
4. Natural Monopolies
5. Unique Expertise
6. Unique Experience
7. Other \_\_\_\_\_

**Approvals:**

**Name:** \_\_\_\_\_ **Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_  
Requestor

**Name:** \_\_\_\_\_ **Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_  
Director

*If expenditures are over \$15,000, the appropriate Asst. City Manager must also sign:*

\_\_\_\_\_ **Date:** \_\_\_\_\_  
Asst. City Manager

ATTACHMENT B

CITY MISSOURI CITY

CERTIFICATION OF EMERGENCY PURCHASE FORM

Section 252.022 of the Texas statutes provides exemptions to the bidding laws for emergencies as follows:

(A)(1). A procurement made because of a public calamity that requires the immediate appropriation of money to relieve the necessity of the municipality's residents or to preserve the property of the municipality.

(A)(2). A procurement necessary to preserve or protect the public health or safety of the municipality's residents.

(A)(3). A procurement necessary because of unforeseen damage to public machinery, equipment or other property.

*Complete the section below and forward to Purchasing Division no later than next business day.*

Purchase involved was necessary because of (A)(1) ☐ (A)(2) ☐ (A)(3) ☐ (indicate one by placing an 'X' in the box)

Description/Justification of Emergency:

Emergency Dollar Amount: \$ \_\_\_\_\_

\_\_\_\_\_  
Name/Title of official responsible for initiating emergency action.

\_\_\_\_\_  
Date:

\_\_\_\_\_  
Signature of Managing Director:  
Required for any dollar amount

\_\_\_\_\_  
Date

\_\_\_\_\_  
Dollar Level Authority Signature  
(if necessary per Directive 1, Authorization of Expenditures)

\_\_\_\_\_  
Date

Purchasing Use Only

Date Received: \_\_\_\_\_

PO Number: \_\_\_\_\_

Director/Buyer Signature: \_\_\_\_\_





# Instructions for Requisition Coversheet Form

## Section I - General Information

1. Complete items (A) through (D) of the form **after** following the instructions for Sections II and III and the purchase requisition has been entered in the MUNIS system.
2. Contact the Buyer if you have any questions.
3. **Email the completed form (do not include the instructions) with any applicable information (quotes, sole source letter, justification, etc.) to Purchasing at [cjohnson@missouricitytx.gov](mailto:cjohnson@missouricitytx.gov). Use the Requisition number as a Subject line**

## Section II - HUB Contact Documentation

1. Review the Local Government Code Chapter 252.022

General Exemptions are listed below:

- a. A purchase made because of a public calamity that requires the immediate appropriation of money to relieve the necessity of the City's residents or to preserve the property of the City;
- b. A purchase necessary to preserve or protect the public health or safety of the City's residents;
- c. A purchase necessary because of unforeseen damage to public machinery, equipment, or other property;
- d. A purchase for personal, professional, or planning services;
- e. A purchase for work that is performed and paid for by the day as the work progresses;
- f. A purchase of land or a right-of-way;
- g. A purchase of items that are available from only one source, including:
  - i. Items that are available from only one source because of patents, copyrights, secret processes, or natural monopolies;
  - ii. Films, manuscripts, or books;
  - iii. Gas, water, and other utility services;
  - iv. Captive replacement parts or components for equipment;
  - v. Books, papers, and other library materials for a public library that are available only from persons holding exclusive distribution rights to the materials;
  - vi. Management services provided by a nonprofit organization to a municipal museum, park, zoo, or other facility to which the organization has provided significant financial or other benefits;
- h. Purchase of rare books, papers, and other library materials for a public library;
- i. Paving, drainage, street widening, and other public improvements, or related matters, if at least one-third of the cost is to be paid by or through special assessments levied on property that will benefit from the improvements;
- j. A public improvement project, already in progress, authorized by the voters of the city, for which there is a deficiency of funds for completing the project in accordance with the plans and purposes authorized by the voters;
- k. A payment under contract by which a developer participates in the construction of a public improvement;
- l. Personal property sold:
  - i. At an auction by a state licensed auctioneer;
  - ii. At a going out of business sale held in compliance with State Law;
  - iii. By a political subdivision of this state, a state agency of this state, or an entity of a federal government;
  - iv. Under an inter-local contract for cooperative purchasing;
- m. Services performed by the blind or severely disabled persons;
- n. Goods purchased by the City for subsequent retail sale by the City;
- o. Electricity; or
- p. Advertising, other than legal notices.

- I. If the goods or services being purchased are covered under one of the General Exemptions above, check item (I) on the form, record the letter of the applicable General Exemption in the space provided, and proceed to the instructions for Section III.
  - II. If the goods or services being purchased are not covered under one of the General Exemptions, proceed to item 2.
2. Internet search for applicable Historically Underutilized Businesses (HUB) located in Fort Bend County.
    - a. Open your Internet browser.
    - b. Clear the Address Bar and type in: <https://mycpa.cpa.state.tx.us/tpasscmbsearch/index.jsp>. Press enter. For future convenience, this URL address may be saved in your Internet browser Favorites.
    - c. A web page titled "Centralized Master Bidders List – HUB Directory Search" should now be displayed in your browser. Click on the "HUBs Only" button under the "Search For" section.
    - d. Select Fort Bend County under the "Business Category/Vendor Location Search section."
    - e. Click on the yellow button titled "Search" at the bottom of the page.
    - f. The Texas Comptroller of Public Accounts list of Fort Bend County HUBs should now be displayed in your browser. Scan the list and determine if any of the businesses are applicable to your purchase. The list may be printed by left clicking on the print icon of the browser. More detailed information on a particular business may be displayed by left double clicking on the company name. Proceed to item 3.
  3. If no applicable HUBs are identified from the search performed in item 2, place a check in front of item (H) on the form and proceed to the instructions for Section III.
  4. If one or more applicable HUBs are identified from the search performed in item 2, the requesting department or Buyer shall contact at least one (1) of those on a rotating basis for future purchases on like items. If only one applicable HUB is identified, the requesting department shall contact that business for a price quote. Proceed to item 5.
  5. After contacting the HUBs, place a check in front of item (G) on the form. Document the name(s) of the HUB(s) that was/were contacted.

### **Section III - Competitive Quotation Documentation**

1. Answer the questions in items (J), (K), (L) and (M) of the form.
  - a. If this is a cooperative or sole source purchase, proceed to the instructions for Section I.
  - b. If this is a single source purchase, provide written justification in the space provided in item (T), attaching additional sheets if necessary. Proceed to the instructions for Section I.
2. If the purchase is neither a cooperative, sole source or single source purchase, a minimum of three (3) competitive recent quotations are required. If the items being purchased consist of services, the Statement of Work (SOW) that was prepared in item 1 (c) shall be provided to the prospective contractors.
3. Record three (3) quotations in items (N) through (S) of the form.
  - a. If the vendor being recommended is low quote, proceed to the instructions for Section I and type in recommended vendor in (F);
  - b. If the vendor being recommended is not low quote, provide written justification in the space provided in item (T), attaching additional sheets if necessary. Proceed to the instructions for Section I.



# CITY OF MISSOURI CITY REQUISITION COVERSHEET



**Section I - General Information** PURCHASE ORDER # \_\_\_\_\_ (Assigned by Purchasing)

- (A) Requisition Number: \_\_\_\_\_ (B) Requisition Date: \_\_\_\_\_  
 (C) Description of Goods: \_\_\_\_\_ (D) Requisitioned By: \_\_\_\_\_  
 (E) Total Amount of Purchase: \_\_\_\_\_ (F) Name of recommended vendor: \_\_\_\_\_

## Section II - HUB Contact Documentation

In compliance with Chapter 252.0215 of the Texas Local Government Code and page 13 of the City Purchasing Manual/Policy, dated 8/27/14, the department originating this purchase requisition or the Buyer certifies that:

### SELECT ONLY ONE

- ☐ (G) The following Fort Bend County Historically Underutilized Businesses were identified and contacted concerning this purchase:

HUB #1	HUB #2

- ☐ (H) No applicable Fort Bend County HUBs were identified from the Comptroller of Public Accounts listing; therefore, the City is exempt from HUB contact requirements for this purchase.

- ☐ (I) Purchase is exempt from HUB contact requirements because it is covered under General Exemption Number \_\_\_\_\_. (Refer to the instructions for a list of the General Exemptions)

## Section III. - Competitive Quotation Documentation

Competitive quotations are generally required for cooperative, emergency, sole source or single source purchases, with justification/sole source documentation, and approval by Purchasing, per pages 20-22 of the City Purchasing Manual/Policy.

- (J) Cooperative Purchase? ☐ Yes ☐ No PSA/Contract # \_\_\_\_\_  
 (K) Sole Source? ☐ Yes ☐ No  
 (L) Single Source? ☐ Yes ☐ No  
 (M) Emergency Purchase? ☐ Yes ☐ No  
 >If yes, City Manager authorization \_\_\_\_\_

	Quotation #1	Quotation #2	Quotation #3	Quotation #4
(N) Name of Company				
(O) Telephone Number				
(P) Contact Person				
(Q) Email Address				
(R) Total Price Quoted				
(S) Quotation #				

- (T) Justification for sole/single source, emergency purchase or recommendation of vendor other than low quote (attach additional sheets if necessary).

Department/Buyer Signature \_\_\_\_\_

Date \_\_\_\_\_





## PROFESSIONAL/CONSULTING SERVICES AGREEMENT

This AGREEMENT ("Agreement") is entered into by and between the undersigned ("Contractor"), \_\_\_\_\_ (Social Security Number or Federal I.D. No.), located at \_\_\_\_\_, and the City of Missouri City ("CITY"), Texas, a municipal corporation of the State of Texas, located at 1522 Texas Parkway, Missouri City, Texas 77489.

**Section 1. Services:** Contractor will perform the designated services and/or provide the designated products as set forth in **Exhibit A** ("Services"), which is attached hereto and incorporated for all purposes. The work under this Agreement shall be completed as detailed in **Exhibit A**. The terms and conditions of this Agreement take precedence over all exhibits and attachments.

**Section 2. Term and Termination:** This Agreement shall begin on \_\_\_\_\_, and shall terminate on \_\_\_\_\_. This Agreement may be terminated, upon thirty (30) days written notice, by the CITY without cause or by the Contractor for cause. This Agreement may be terminated immediately by the CITY for cause. Upon termination, CITY shall pay Contractor, at the rate set out in **Exhibit B**, attached hereto and incorporated herein for all purposes, for Services satisfactorily performed up through the date of termination. Notwithstanding any provision in this Agreement to the contrary, CITY will not be required to pay or reimburse Contractor for any services performed or for expenses incurred by Contractor after the date of the termination notice that could have been avoided or mitigated by Contractor.

**Section 3. Compensation:** Contractor shall be paid for the services and reimbursable travel expenses, if any, as set forth in **Exhibit B**. CITY shall pay Contractor in accordance with the Texas Government Code, Chapter 2251. Contractor must submit invoices for all Services, which invoices must include dates and hours of service and details of services provided. Invoices shall be submitted, not later than the second (2<sup>nd</sup>) and fourth (4<sup>th</sup>) Friday of each month, to the City Project Manager. Payment for delivery of Services rendered shall not be unreasonably withheld or delayed. The CITY shall be under no obligation to pay for Services rendered without prior authorization. Upon resolution of any disputed charges, Contractor shall submit an amended invoice covering any remaining charges to CITY.

**Section 4. Travel:** Contractor ☐ shall ☐ shall not be reimbursed for travel conducted in the pursuit of this Agreement and appropriate per diem as outlined in **Exhibit B**. Documentation, which shall consist of original receipts, of travel costs, including, but not limited to, hotel and transportation costs, shall be provided by the Contractor for all travel-related expenses, except mileage from the Contractor's personal automobile.

**Section 5. Limit of Appropriation and Fiscal Funding.** The Contractor clearly understands and agrees, such understanding and agreement being of the absolute essence to this Agreement, that the CITY shall have available the amount budgeted by the CITY for \_\_\_\_\_ to discharge any and all liabilities which may be incurred by the CITY pursuant to this Agreement and that the total maximum compensation that the Contractor may become entitled to hereunder and the total maximum sum that the CITY shall become liable to pay to the



## PROFESSIONAL/CONSULTING SERVICES AGREEMENT

Contractor hereunder shall not under any conditions, circumstances, or interpretations, hereof, exceed the said total maximum sum provided for in this section without prior written permission from the CITY. The CITY'S fiscal year is July 1 through June 30. If this Agreement extends beyond June 30<sup>th</sup>, there shall be a fiscal funding out. If, for any reason, funds are not appropriated to continue the contract in the new fiscal year, this Agreement shall become null and void on the last day of the current appropriation of funds without penalty of any kind or form to the CITY.

**Section 6. Relationship of the Parties:** Contractor is an independent contractor and is not an employee, partner, joint venture, or agent of CITY. Contractor understands and agrees that he/she will not be entitled to any benefits generally available to City of Missouri City employees. Contractor shall be responsible for all expenses necessary to carry out the services under this agreement, and shall not be reimbursed by CITY for such expenses except as otherwise provided in this Agreement.

**Section 7. Authority of City Project Manager:** All Services to be performed by the Contractor hereunder shall be performed to the satisfaction of the CITY'S project manager. The CITY'S project manager shall decide any and all questions, which may arise as to the quality or acceptability of the Services performed by the Contractor and the decisions of the CITY'S project manager in such cases shall be final and binding on both parties. However, nothing contained herein shall be construed to authorize the CITY'S project manager to alter, vary or amend this Agreement.

**Section 8. Intellectual Property:** This Agreement shall be an agreement for services and the parties intend and consider any work created as a result of this Agreement, including any and all documentation, images, products or results, to be a work for hire under federal copyright law. Ownership of the work shall belong to and remain the exclusive property of CITY. The work may be edited at any time within the CITY's discretion. If the work would not be considered a work-for-hire under applicable law, Contractor hereby assigns, transfers, and conveys any and all rights, title and interest to CITY, including without limitation all copyrights, patents, rights of reproduction, rights to ownership, and right to secure registrations, renewals, reissues and extensions thereof. As the sole copyright holder of the work, CITY maintains and asserts the rights to use, reproduce, make derivative works from, and/or edit the work in any form of medium, expression or technology now known or hereafter developed, at any time within the City 's discretion. Contractor shall not sell, disclose or obtain any other compensation for the Services provided herein. If the work is one to which the provisions of 17 U.S.C. § 106A apply, the Contractor hereby waives and appoints CITY to assert on the Contractor's behalf the Contractor's moral rights or any equivalent rights regarding the form or extent of any alteration to the work (including, without limitation, removal or destruction) or the making of any derivative works based on the work, including, without limitation, photographs, drawings or other visual reproductions of the work, in any medium, for CITY purposes.

**Section 9. Confidentiality:** During the term of this Agreement, Contractor may come in contact with confidential information of CITY. Contractor agrees to treat as confidential the information or knowledge that becomes known to Contractor during performance of this Agreement and not



## PROFESSIONAL/CONSULTING SERVICES AGREEMENT

to use, copy, or disclose such information to any third party unless authorized in writing by CITY. This provision does not restrict the disclosure of any information that is required to be disclosed under applicable law. Contractor shall promptly notify CITY of any misuse or unauthorized disclosure of its confidential information and upon expiration of this Agreement shall return to CITY all confidential information in Contractor's possession or control. Contractor shall further comply with all City information security policies that may apply and shall not make any press releases, public statements or advertisement referring to the Services provided under this agreement or the engagement of Contractor without the prior written approval of CITY.

**Section 10. Warranties and Representations:** Contractor warrants and agrees that Contractor shall perform the Services and conduct all operations in conformity with all applicable federal, state, and local laws, rules, regulations, and ordinances. For any Service performed on premises owned or controlled by CITY, Contractor warrants and agrees that Contractor will perform the Services in compliance with all CITY rules, including but not limited to, prohibitions related to tobacco use, alcohol, and other drugs.

**Section 11. Licenses/Certifications:** Contractor agrees to obtain, at its own cost, any and all approvals, licenses, filings, registrations and permits required by federal, state or local laws, regulations or ordinances, required for the performance of the Services.

**Section 12. Performance/Qualifications and Assignment:** Contractor agrees and represents that Contractor has the personnel, experience, and knowledge necessary to qualify Contractor for the particular duties to be performed under this Agreement. Contractor warrants that all services performed under this Agreement shall be performed consistent with generally prevailing professional or industry standards. The CITY and the Contractor bind themselves and their successors, executors, administrators, and assigns to this Agreement and to the successors, executors, administrators and assigns of the other party, in respect to all covenants of this Agreement. Neither the CITY nor the Contractor shall assign, sublet or transfer its or his interest in this Agreement without the written consent of the other, which consent will not be unreasonably withheld. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of any public body, which may be a party hereto.

**Section 13. Conflict of Interest:** Contractor warrants, represents, and agrees that Contractor presently has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with Contractor's performance of the services hereunder. Contractor further warrants and affirms that no relationship or affiliation exists between Contractor and CITY that could be construed as a conflict of interest with regard to this Agreement. Pursuant to Section 2252.908, Texas Government Code, if this Agreement requires an action or vote by the CITY Council or has a value of at least \$1 million, Contractor further warrants that Contractor has submitted a disclosure of interested parties to the CITY.

**Section 14. Insurance:** For the entire term of the Agreement ("Term"), Contractor shall maintain Comprehensive General Liability insurance coverage of \$1,000,000 per occurrence,



## PROFESSIONAL/CONSULTING SERVICES AGREEMENT

\$2,000,000 in the aggregate or medical malpractice insurance (whichever applies)., Contractor shall also maintain the following insurance: (i) Worker's Compensation coverage with statutory limits for the State of Texas, including Employers Liability coverage of \$500,000 per accident; (ii) Commercial Automobile Liability coverage of \$1,000,000 Combined Single Limit; (iii) for engineers and architects only: Professional Liability coverage of \$5,000,000 per occurrence; and (iv) for builders only: Builder's Risk coverage in the amount of the construction cost, including protection against named windstorm and flood. All policies must contain a waiver of subrogation against City. Comprehensive General Liability and Commercial Automobile Liability policies must name CITY as Additional Insured. Contractor shall pay all insurance deductibles and deductibles must not exceed \$10,000 unless approved in advance by City. Contractor shall provide City Certificates of Insurance evidencing these insurance requirements prior to the start of work. The Contractor shall notify the CITY in the event of any change in the required coverage or cancellation, and shall give such notices not less than 30 days prior to the change or cancellation. The Contractor shall provide a replacement Certificate of Insurance prior to such change or cancellation. The Contractor agrees to waive all the Contractor's, its officers, employees, agents, assigns, and successors' rights of subrogation, except under the Professional Liability, against the CITY, its officers, employees, and elected representatives for injuries, including death, property damage, or other loss covered by insurance and the Contractor will provide a waiver of subrogation endorsement against the CITY. The CITY must be named or listed on the endorsement. **COVERAGES SHALL BE WITH A COMPANY (WITH AT LEAST AN A- BEST RATING) ACCEPTABLE TO THE CITY PURCHASING AND RISK MANAGEMENT DIVISION AND A COPY OF THE CERTIFICATE OF COVERAGE SHALL BE DELIVERED TO THE CITY ON OR BEFORE THE DATE OF THIS AGREEMENT.**

**Section 15. Indemnification:** Contractor shall indemnify and hold harmless City , and each of its directors, officers, agents and employees from and against all claims, actions, suits, demands, proceedings, costs, damages and liabilities, including without limitation attorneys' fees and reasonable litigation costs, arising out of, connected with, or resulting from any acts or omissions of Contractor or any agent, employee, subcontractor, or supplier of Contractor in the execution or performance of this contract. If any action or proceeding shall be brought by or against the CITY in connection with any such claim, action, suit, demand, proceeding, cost, damage, or liability, the CONTRACTOR, on notice from the CITY, shall defend the CITY against such action or proceedings at Contractor's expense, by or through attorneys reasonably satisfactory to the CITY. The Contractor's obligations under this section shall not be limited to the limits of coverage of insurance maintained or required to be maintained by the Contractor under this Agreement.

**Section 16. Force Majeure:** Neither CITY nor Contractor will be liable for any failure, breach, loss, damage or delay in the performance of this Agreement due to any cause beyond its reasonable control, including, an act of war, an act of God, earthquake, flood, embargo, riot, sabotage, labor shortage or dispute, governmental act or failure of the Internet (not resulting from the negligence or willful misconduct of CONTRACTOR), provided that the delayed party: (a) gives the other party prompt notice of such cause, and (b) uses its reasonable commercial efforts to promptly correct such failure or delay in performance.



## PROFESSIONAL/CONSULTING SERVICES AGREEMENT

**Section 17. Notices:** Any notice given under this contract by either party to the other may be given by personal delivery in writing or by mail, registered or certified postage prepaid with return receipt requested. Mailed notices shall be addressed to the addresses of the parties as they appear in the contract. Notices delivered personally shall be deemed communicated at the time of actual receipt. Mailed notice shall be deemed communicated three (3) days after mailing.

**Section 18. Texas Family Code Child Support Certification:** Pursuant to Section 231.006, Texas Family Code, Contractor certifies that it is not ineligible to receive the award of or payments under the Agreement and acknowledges that the Agreement may be terminated and payment may be withheld if this certification is inaccurate.

**Section 19. Jurisdiction:** CITY and Contractor agree that any dispute under this Agreement shall be brought in a court of competent jurisdiction in Fort Bend County, Texas, and that this Agreement shall be governed by Texas law, except for the conflict of law provisions.

**Section 20. Entire Agreement:** This Agreement contains the entire agreement between the parties and supersedes any and all prior agreements, arrangements, and understanding, oral or written between the parties relating to this Agreement. This Agreement may not be modified except by mutual written agreement of the parties executed subsequent to this agreement.

**Section 21. Severability:** In the event that any provision(s) of this Agreement shall for any reason be held invalid, illegal, or unenforceable, the invalidity, illegality or unenforceability of that provision(s) shall not affect any other provision(s) of this Agreement, and it shall further be construed as if the invalid, illegal, or unenforceable provision(s) had never been a part of this Agreement.

**Section 22. Authority:** Contractor warrants and represents that Contractor has full power and authority to enter into and perform this agreement and to make the grant of rights contained herein. The person signing on behalf of CITY represents that he/she has authority to sign this agreement on behalf of CITY.



## PROFESSIONAL/CONSULTING SERVICES AGREEMENT

_____	City of Missouri City
<Contractor's Name>	
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

*Note: Modification of this Form requires approval by the Office of the City Attorney.*





## PROFESSIONAL/CONSULTING SERVICES AGREEMENT

### EXHIBIT "A" SERVICES

#### 1. Services:

Contractor will serve as a

---

---

---

---

---

---

---

---

#### 2. Deliverables:

Contractor will deliver the following (Attach additional sheet, if necessary):

1. 

---
2. 

---
3. 

---
4. 

---
5. 

---
6. 

---
7. 

---
8. 

---
9. 

---



## PROFESSIONAL/CONSULTING SERVICES AGREEMENT

### EXHIBIT "B" COMPENSATION

1. **Compensation (Select one item):**

☐ Contractor shall be paid a **flat rate** of \_\_\_\_\_ dollars (\$\_\_\_\_\_) for services.

OR

☐ Compensation shall be based on a **daily rate** of \_\_\_\_\_ dollars (\$\_\_\_\_\_) for \_\_\_\_\_ (\_\_\_\_) days between \_\_\_\_\_ and \_\_\_\_\_, \_\_\_\_\_ (year).

OR

☐ Compensation shall be based on an **hourly rate** of \_\_\_\_\_ dollars (\$\_\_\_\_\_) for a total amount of \_\_\_\_\_ (\_\_\_\_) Service hours.

Total compensation paid by CITY to Contractor for Services shall not exceed \_\_\_\_\_ dollars (\$\_\_\_\_\_), which amount does not include applicable sales tax or reimbursable expenses (below), without the express written consent of CITY.

Compensation will be made upon completion of services and in accordance with the Texas Prompt Payment Act.

2. **Reimbursable Travel Expenses:**

Reimbursable Travel Expenses under this Agreement and charged to CITY will not exceed \_\_\_\_\_ dollars (\$\_\_\_\_\_):

**Reimbursable Expenses included in this agreement are listed as follows:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Reasonable expenses related to meals, lodging, mileage, and coach class airfare that Contractor incurs may be covered if required to complete obligations herein (collectively "**Travel Expenses**"). Contractor agrees and acknowledges that in regard to reimbursement for Travel expenses, Contractor will be subject to the State of Texas Travel Reimbursement Guide, as may be amended from time to time. Further, Contractor agrees and acknowledges that Contractor will not be reimbursed by CITY for expenses that are prohibited or that exceed the allowable amounts set forth in the Travel Reimbursement Guide. Airfare reimbursements will be provided for general coach seating only and must be approved in advance by CITY. All requests for reimbursement of Travel Expenses must be accompanied by a signed invoice accompanied by original substantiating receipts.

CITY CONTRACT  
FOR  
**SAMPLE**  
(Local Contract # 17-)

**STATE OF TEXAS §**

**COUNTY OF FORT BEND §**

THIS AGREEMENT MADE, entered into and executed by and between the CITY OF MISSOURI CITY, a body corporate and politic under the laws of the State of Texas, hereinafter called "CITY", and

hereinafter called "CONTRACTOR".

WHEREAS, the CONTRACTOR represents that it is fully capable of making and qualified to provide assistance to the CITY (or Client) and the CONTRACTOR desires to perform the same;

NOW, THEREFORE, the CITY and the CONTRACTOR, in consideration of the mutual covenants and agreements herein contained, do mutually agree as follows:

**SECTION I  
SCOPE OF AGREEMENT**

The CONTRACTOR agrees to provide the following services:

**Scope Text**

and for having provided said services, the CITY agrees to pay the CONTRACTOR compensation as stated in the sections to follow. The terms and conditions of this Agreement shall take precedence over all attachments. Any terms and conditions attached to or included in the Scope of Work by the CONTRACTOR are intentionally excluded from this Agreement and will not be enforceable against the CITY.

**SECTION II  
CHARACTER AND EXTENT OF WORK**

The CONTRACTOR shall provide the services as defined in Section I. The CITY shall be under no obligation to pay for any additional services rendered without prior written authorization.

**SECTION III  
TIME FOR PERFORMANCE**

The work under this Agreement shall be completed as detailed Section 1

The CITY reserves the right to terminate this contract at any time during the term of the contract, without cause, with a written thirty (30) days notice to terminate and pay the contractor for work performed to date.

#### **SECTION IV COMPLIANCE AND STANDARDS**

The CONTRACTOR agrees to provide services hereunder in accordance with the generally accepted standards applicable thereto and shall use that degree of care and skill commensurate with the CONTRACTOR's trade or profession to comply with all applicable state, federal, and local laws, ordinances, rules, and regulations relating to the services provided hereunder and the CONTRACTOR's performance. The CONTRACTOR shall and does hereby agree to indemnify and hold harmless the CITY, its officers, agents, and employees from any and all damages, loss, or liability of any kind, whatsoever, including, but not limited to, death, injury, or property damages, caused by the intentional, knowing, reckless, or negligent act or omission (hereinafter referred to as "fault") of the CONTRACTOR, its officers, agents, employees, invitees or other persons for whom it is legally liable, with regard to the performance of this Agreement, and the CONTRACTOR will, at its cost and expense, defend, pay on behalf of, and protect the CITY and its officers, agents, and employees against any and all such claims and demands. Such indemnity shall apply where the suits, actions, legal proceedings, claims, demands, damages, costs, expenses and attorney fees arise in whole or in part from the fault of the CONTRACTOR. The indemnification provision shall survive the expiration or termination of the Agreement.

*Force Majeure.* Neither the CONTRACTOR, its suppliers nor the CITY will be liable for any failure or delay in this Agreement due to any cause beyond its reasonable control, including acts of war, acts of God, earthquake, flood, embargo, riot, sabotage, labor shortage or dispute, governmental act or failure of the Internet (not resulting from the negligence or willful misconduct of CONTRACTOR), provided that the delayed party: (a) gives the other party prompt notice of such cause, and (b) uses its reasonable commercial efforts to promptly correct such failure or delay in performance. If the CONTRACTOR is unable to provide services for a period of ten (10) consecutive days as a result of a continuing force majeure event, the CITY may cancel the services order without penalty.

#### **SECTION V THE CONTRACTOR'S COMPENSATION**

For and in consideration of the services rendered by the CONTRACTOR pursuant to this Agreement, the CITY shall pay the CONTRACTOR the amount of one-thousand, two-hundred and fifty-dollars (\$ 1250.00) per training session and two-hundred, seventy-five dollars (\$ 275.00) per hour for customization and preparation. The entire fee shall not exceed four-thousand, one-hundred and fifty-dollars (\$4,150.00) for all services rendered.

#### **SECTION VI TIME OF PAYMENT**

Payment by the CITY to the CONTRACTOR shall be made as follows:

The CONTRACTOR shall be provided a purchase order number from the CITY and such number shall be referenced on all invoices submitted to the CITY.

On or about the first of each month, the CONTRACTOR shall submit, to the appropriate CITY staff member, an invoice in a form acceptable to the CITY, setting forth the charges for the service provided which were delivered during such billing period, and the compensation which is due for same. The CITY contract manager shall review the same and approve it with such modifications, as deemed appropriate. The CITY shall pay each invoice as approved by the CITY contract manager within thirty (30) days after receipt of a true and correct invoice by the CITY. The approval or payment of any such invoice shall not be considered to be evidence of performance

by the CONTRACTOR to the point indicated by such invoice or of the receipt of or acceptance by the CITY of the services covered by such invoice.

Invoices shall be submitted via electronic mail to the following address:

City of Missouri City  
Accounts Payable Office  
1522 Texas Parkway  
Missouri City, TX 77489  
[accountspayable@missouricitytx.gov](mailto:accountspayable@missouricitytx.gov)

Invoices submitted without a purchase order number will be returned unpaid. Failure to submit invoices to the above address will delay payment. DO NOT submit invoices to any other address for payment.

Chapter 2251 of the Texas Government Code, commonly known as the Prompt Payment Act, sets out the required deadlines for payment of the CITY'S obligations to its vendors, requirements for vendor's payments to their subcontractors, penalties for failure to comply with the Act and exceptions to the Act.

The Act requires political subdivisions to pay all payments owed not later than thirty (30) days after the goods and services are received, the performance of the service under the contract is completed, or the date the invoice is received, whichever is later. Interest automatically accrues at one percent (1%) per month plus the prime rate as published in the Wall Street Journal on the first day of July of the preceding fiscal year that does not fall on a Saturday or Sunday. The Act also requires a vendor to pay subcontractors the appropriate share of the vendor's payments from the CITY not later than the 10th day after the date the vendor receives the payment. Subcontractors must pay their suppliers, materialmen and servicemen within ten (10) days of receipt of their payment.

When the CITY believes there is an error on the invoice received from a vendor, it has until the 21st day after receipt to notify the vendor of the dispute. If resolved in favor of the CITY, the vendor must submit a new invoice and the CITY has thirty (30) days to pay. If the dispute is resolved in favor of the vendor, interest is due from the original date on which the invoice would have become overdue.

## **SECTION VII TERMINATION**

The CITY may terminate this Agreement at any time by giving thirty (30) days written notice to the CONTRACTOR. The CONTRACTOR may terminate this agreement upon thirty (30) days written notice to the CITY in the event the CITY has failed to pay the CONTRACTOR'S invoices. If the CONTRACTOR has been providing services in accordance with this Agreement, the CITY shall pay the CONTRACTOR all amounts due up to the time of termination.

## **SECTION VIII ADDRESS AND NOTICES AND COMMUNICATIONS**

The parties contemplate that they will engage in informal communications with respect to the subject matter of this Agreement. However, any formal notices or other communications ("Notice") required to be given by one party to the other party under this Agreement shall be given in writing addressed to the party to be notified at the address set forth below for such party, (i) by delivering the same in person, (ii) by depositing the same in the United States mail, certified or

registered, return receipt requested, postage prepaid, addressed to the party to be notified, or (iii) by depositing the same with a nationally recognized courier service guaranteeing "next day delivery," addressed to the party to be notified, (iv) by sending the same by telefax with confirming copy sent by mail, or (v) by sending the same by electronic mail with confirming copy sent by mail. Notice deposited in the United States mail in the manner hereinabove described shall be deemed effective from and after the date of such deposit. Notice given in any other manner shall be effective only if and when received by the party to be notified. For the purposes of notice, the addresses of the parties, until changed by providing written notice in accordance hereunder, shall be as follows:

All notices and communications under this Agreement shall be mailed to the CONTRACTOR at the following address:

Vendor Name, Address, etc.

All notices and communications under this Agreement shall be sent to the CITY at the following address:

City of Missouri City  
Attn: Alan A. Phillips, CPPB CTPM  
1522 Texas Parkway  
Missouri City, Texas 77489  
281-403-8626  
[alan.phillips@missouricitytx.gov](mailto:alan.phillips@missouricitytx.gov)

#### **SECTION IX LIMIT OF APPROPRIATION**

Prior to the execution of this Agreement, the CONTRACTOR has been advised by the CITY and the CONTRACTOR clearly understands and agrees, such understanding and agreement being of the absolute essence to this Agreement, that the CITY shall have available the amount budgeted by the CITY for materials testing to discharge any and all liabilities which may be incurred by the CITY pursuant to this Agreement and that the total maximum compensation that the CONTRACTOR may become entitled to hereunder and the total maximum sum that the CITY shall become liable to pay to the CONTRACTOR hereunder shall not under any conditions, circumstances, or interpretations, hereof, exceed the said total maximum sum provided for in this section without prior written permission from the CITY.

#### **SECTION X SUCCESSORS AND ASSIGNS**

The CITY and the CONTRACTOR bind themselves and their successors, executors, administrators, and assigns to the other party of this Agreement and to the successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement. Neither the CITY nor the CONTRACTOR shall assign, sublet or transfer its or his interest in this Agreement without the written consent of the other, which consent will not be unreasonably withheld. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of any public body, which may be a party hereto.

#### **SECTION XI**

## **MEDIA**

Contact with the news media shall be the sole responsibility of the CITY. The CONTRACTOR shall under no circumstances release any material or information developed in the performance of its work hereunder without the express written permission of the CITY.

## **SECTION XII AUTHORITY OF CITY PROJECT MANAGER**

All work to be performed by the CONTRACTOR hereunder shall be performed to the satisfaction of the CITY'S project manager. The CITY'S project manager shall decide any and all questions, which may arise as to the quality, or acceptability of the work performed by the CONTRACTOR and the decisions of the CITY'S project manager in such cases shall be final and binding on both parties. However, nothing contained herein shall be construed to authorize the CITY'S project manager to alter, vary or amend this Agreement.

## **SECTION XIII MODIFICATIONS**

This instrument contains the entire Agreement between the parties relating to the rights herein granted and the obligations herein assumed. Any oral or written representations or modifications concerning this instrument shall be of no force and effect, except for a subsequent modification in writing signed by both parties hereto.

## **SECTION XIV FISCAL FUNDING**

The CITY'S fiscal year is July 1 through June 30.

If this contract extends beyond June 30<sup>th</sup>, there shall be a fiscal funding out. If, for any reason, funds are not appropriated to continue the contract in the new fiscal year, said contract shall become null and void on the last day of the current appropriation of funds. Contract will then be terminated without penalty of any kind or form to the CITY.

## **SECTION XV INSURANCE REQUIREMENTS**

### **INSURANCE AND HOLD HARMLESS AGREEMENT**

The CONTRACTOR shall indemnify and hold the CITY harmless from all claims for personal injury, death and/or property damage arising out of or resulting from, directly or indirectly, the CONTRACTOR'S negligent performance of services under this Agreement or by reason of any act or omission on the part of the CONTRACTOR, its officers, directors, servants, agents, employees, representatives, contractors, subcontractors, licensees, successors, or permitted assigns. If any action or proceeding shall be brought by or against the CITY in connection with any such liability or claim, the CONTRACTOR, on notice from the CITY, shall defend such action or proceedings at CONTRACTOR'S expense, by or through attorneys reasonably satisfactory to the CITY. The CONTRACTOR's obligations under this section shall not be limited to the limits of coverage of insurance maintained or required to be maintained by the CONTRACTOR under this Agreement. The CONTRACTOR shall procure and maintain, with respect to the subject matter of this Agreement, appropriate insurance coverage with limits to cover the CONTRACTOR'S liability as may arise or cause, directly or indirectly, from work performed under terms of this Agreement.

A current certificate of liability insurance is required to be submitted to the Purchasing Office before the CITY will enter into a contract with the CONTRACTOR. The certificate of insurance shall be an attachment to the contract document. In addition, the CITY will not enter into any separate indemnification or hold harmless agreements with the CONTRACTOR.

### POLICY REQUIREMENTS

The CONTRACTOR and all subcontractors performing work for the CONTRACTOR under this Agreement shall furnish a completed insurance certificate to the CITY prior to the event, which shall be completed by an agent authorized to bind the named underwriter(s) for coverage, limits, and termination provisions shown thereon, and which shall contain the following:

- (a) Worker's Compensation: Workers' Compensation Insurance with statutory limits as required by the State of Texas and Employer's Liability with minimum limits of \$1,000,000 each accident and each employee;
- (b) Commercial General Liability: General Liability Coverage with minimum limits of \$1,000,000 each occurrence, \$2,000,000 in aggregate;
- (c) Automobile Liability: Automobile Liability Insurance that provides coverage for owned, hired, and non-owned automobiles. Liability limits shall be \$1,000,000 combined single limit each accident for bodily injury and property damage; and
- (d) Professional Liability (Errors and Omissions): Coverage Amount \$1,000,000 per occurrence and \$1,000,000 annual aggregate.

The CITY shall be entitled, upon request and without expense, to receive copies of the certificate of insurance and the required policies and endorsements.

The CONTRACTOR agrees, with respect to the above required insurance, that all insurance contracts and certificate(s) of insurance will contain and state, in writing, on the certificate or its attachment, the following required provisions:

- (a) The CONTRACTOR shall notify the CITY of any change in the required coverage or cancellation, and shall give such notices not less than 30 days prior to the change or cancellation. The CONTRACTOR shall provide a replacement CERTIFICATE OF INSURANCE prior to such change or cancellation;
- (b) Provide for an endorsement that the "other insurance" clause or provision shall not apply to the CITY where the CITY is shown as an additional insured on the policy;
- (c) Provide for notice to the CITY at the address shown in this Agreement;
- (d) The CONTRACTOR agrees to waive all the CONTRACTOR'S, its officers, employees, agents, assigns, and successors' rights of subrogation against the CITY, its officers, employees, and elected representatives for injuries, death, property damage, or other loss covered by insurance and the CONTRACTOR will provide a waiver of subrogation endorsement against the CITY. The CITY must be named or listed on the endorsement; and
- (e) The CITY, its elected and appointed officials, employees and agents shall be listed as additional insured to the required coverage. All coverage specified shall remain in effect during the term of this Agreement. No cancellation of or changes to the certificates, the



policies or endorsements may be made without thirty (30) days prior written notification to the CITY. Any termination of coverage without replacement shall result in immediate termination of this Agreement.

**COVERAGES SHALL BE WITH A COMPANY (WITH AT LEAST AN A- BEST RATING) ACCEPTABLE TO THE CITY PURCHASING AND RISK MANAGEMENT DEPARTMENT AND A COPY OF THE CERTIFICATE OF COVERAGE SHALL BE DELIVERED TO THE CITY ON OR BEFORE THE DATE OF THIS AGREEMENT.**

#### NOTICES

All notices shall be given to the CITY at the following address:

City of Missouri City  
Purchasing and Risk Management  
Attn: Alan A. Phillips  
1522 Texas Parkway  
Missouri City, Texas 77489

#### **APPROVAL**

Approval, disapproval, or failure to act by the CITY regarding any insurance supplied by the CONTRACTOR shall not relieve the CONTRACTOR of full responsibility or liability for damages and accidents as set forth in the contract documents. Neither shall the bankruptcy, insolvency, or denial of liability by the insurance company exonerate the CONTRACTOR from liability.

#### **SECTION XVI CHOICE OF LAW**

This Agreement shall be governed by the laws of the State of Texas, except for the conflict of law provisions, with venue in Fort Bend County, Texas and the CONTRACTOR hereby consents to such jurisdiction and venue.

#### **SECTION XVII SEVERABILITY**

In the event that any provision(s) of this Agreement shall for any reason be held invalid, illegal, or unenforceable, the invalidity, illegality or unenforceability of that provision(s) shall not affect any other provision(s) of this Agreement, and it shall further be construed as if the invalid, illegal, or unenforceable provision(s) had never been a part of this Agreement.

**SECTION XVII  
CONTRACT SIGNATURE SHEET**

This document and the included exhibit, except for any terms and conditions attached to or included in the Scope of Work by the CONTRACTOR, is the entire Agreement and recites the full consideration between the parties, there being no other written or parole agreement.

IN WITNESS WHEREOF, the said CITY has lawfully caused these presents to be executed by the City Manager of said CITY, and the said CONTRACTOR, acting by its thereunto duly authorized representative, does now sign, execute and deliver this instrument.

Authorized by the City of Missouri City, Texas on the \_\_\_\_\_ day of \_\_\_\_\_, 2016.

Reviewed by: \_\_\_\_\_  
Alan A. Phillips, Purchasing Manager

**Vendor Name**

**City of Missouri City**

\_\_\_\_\_  
Signature

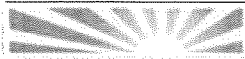
\_\_\_\_\_  
Anthony Snipes

Title: \_\_\_\_\_

City Manager

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date



Department \_\_\_\_\_

Asset Tag #	Description	Brand	Serial #	Quantity
ASSET001	Desktop Computer - Intel Core i7, 16GB RAM, 512GB SSD	Dell	DELL123456789	1
ASSET002	Laptop Computer - 15.6 inch, Intel Core i5, 8GB RAM, 256GB SSD	HP	HP123456789	1
ASSET003	Server Rack - 4U, Intel Xeon E5, 64GB RAM, 10TB HDD	Lenovo	LENV123456789	1
ASSET004	Network Switch - 24 Port, Gigabit Ethernet	Cisco	CISC123456789	1
ASSET005	Wireless Access Point - 802.11ac, PoE	Aruba	ARUB123456789	1
ASSET006	Printer - Color Laser, A4, 3000 Pages	Epson	EPSON123456789	1
ASSET007	Scanner - Flatbed, A4, 300 DPI	Brother	BROT123456789	1
ASSET008	Router - Wireless, 4G LTE, 100Mbps	Netgear	NETG123456789	1
ASSET009	UPS - 1500VA, 1200W, 12V	APC	APC123456789	1
ASSET010	Monitor - 27 inch, 4K, IPS	LG	LG123456789	1
ASSET011	Keyboard - Wireless, Backlit	Logitech	LOGI123456789	1
ASSET012	Mouse - Wireless, Ergonomic	Logitech	LOGI123456789	1
ASSET013	Webcam - 1080p, USB	Logitech	LOGI123456789	1
ASSET014	Headset - USB, Noise Cancelling	Sennheiser	SENN123456789	1
ASSET015	Smartwatch - Apple Watch Series 5, 42mm	Apple	APPLE123456789	1
ASSET016	Smartphone - Samsung Galaxy S21, 128GB	Samsung	SAMS123456789	1
ASSET017	Tablet - iPad Air, 10.9 inch, 256GB	Apple	APPLE123456789	1
ASSET018	Smart TV - 55 inch, 4K, Smart TV	Samsung	SAMS123456789	1
ASSET019	Sound System - 2.1 Channel, Bluetooth	Sony	SONY123456789	1
ASSET020	Smart Home Hub - Amazon Echo, 4th Gen	Amazon	AMZN123456789	1

Asset Tag #	Description	Brand	Serial #	Quantity



## Purchasing Department

### Non-Compliant Purchase Authorization Form

*(Purchase of goods or services before a purchase order is approved and issued.)*

Originating Dept: \_\_\_\_\_

Date: \_\_\_\_\_

Vendor Name: \_\_\_\_\_ Requisition Number(s) \_\_\_\_\_

Purchase Order Number(s) \_\_\_\_\_; or Vendor Invoice Number(s) \_\_\_\_\_

has (have) been identified as "procedurally non-compliant" due to a finding of an invoice which pre-dates the issuance of a valid City purchase order and/or the entry and appropriate Departmental approval of a related purchase requisition by the originating Department listed above. This occurrence breaches the City Purchasing Policy.

The following information is requested of the initiating Department and the completed form must be returned with the appropriate signatures to the Purchasing Department. The Department Director and Finance Director shall approve/disapprove the purchase. Purchase Order will be issued if approved by the aforementioned directors. **NOTE:** Should the directors disapprove, the employee who initiated the purchase may be held personally responsible for the expense and may be obligated to pay the vendor using their personal funds.

1. Explanation/justification for the unauthorized obligation, i.e., why the requisition/purchase order process was initiated **after** the invoice was dated/received:
2. Explain the steps which will be taken to avoid similar non-compliance in the future (please note date and nature of any Departmental consultation/corrective actions taken in response to this non-compliant purchase):

\_\_\_\_\_  
Signature (Employee responsible for obligation)

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Signature (Department Director)

Date: \_\_\_\_\_  
Approve    Disapprove    (Please circle one)

\_\_\_\_\_  
Signature (City Manager)

Date: \_\_\_\_\_  
Approve    Disapprove    (Please circle one)

#### **IMPORTANT NOTICE:**

- 1) Repeated violations of the above-referenced City Purchasing Policy may subject the responsible employee to disciplinary action up to and including termination, at the user department's discretion.
- 2) The supplier will be notified of this occurrence and advised not to accept any future orders from City of Missouri City personnel without an approved purchase order.

